

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

**I TE RATONGA AHUMANA TAIMAHI  
TE WHANGANUI-A-TARA ROHE**

[2025] NZERA 239  
3304360

BETWEEN	RACH STILLMAN Applicant
AND	BROTHER COFFEE LIMITED Respondent

Member of Authority: Natasha Szeto

Representatives: Claudia Serra, advocate for the Applicant  
Anna Barnett, counsel for the Respondent

Investigation Meeting: 13 February 2025 in Napier

Submissions and further information received: 20 February 2025 from the Applicant  
27 February 2025 from the Respondent

Date of Determination: 2 May 2025

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**DETERMINATION OF THE AUTHORITY**

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**The Employment Relationship Problem**

[1] Rach Stillman was employed as the Senior Chef de Partie at Brother café in October 2023. The café, which was owned and operated by Brother Coffee Limited (Brother) closed in February 2024 and all the workers were made redundant.

[2] Ms Stillman says her dismissal on the basis of redundancy was not genuine, in that it lacked substantive justification and was procedurally deficient. Ms Stillman says Brother has not acted in good faith towards her. Brother says the redundancies were genuine, the procedure followed was fair, and it did not act in bad faith.

[3] This determination resolves the issue of whether Ms Stillman was unjustifiably dismissed on the basis of a redundancy and should be paid compensation and lost earnings. It also resolves whether a penalty should be awarded against Brother for breaching its good faith obligations, with a portion of the penalty going to Ms Stillman.

### **The Authority's Investigation**

[4] Written witness statements were lodged by Ms Stillman and her brother Simon Yock (as to impact). For Brother, written statements were lodged by Halle Evans (director and owner/operator) and a family trustee, Howard Padman. Ms Stillman and Ms Evans attended the Authority's investigation meeting in person, and answered questions under affirmation. By consent, Mr Yock and Mr Padman provided sworn statements following the investigation.

[5] As permitted by s 174E of the Employment Relations Act 2000 (the Act), this determination has stated findings of fact and law, expressed conclusions on issues necessary to dispose of the matter and specified the orders made. It has not recorded all the evidence and submissions received, but all information submitted to the Authority has been considered.

### **Issues**

[6] The issues the Authority is to investigate and determine are:

- (a) Whether Ms Stillman was unjustifiably dismissed on the basis the redundancy was not genuine and/or that a fair and reasonable process was not followed.
- (b) Whether Brother has breached the duty of good faith under the Act.
- (c) If Brother is found to have unjustifiably dismissed Ms Stillman, whether she should be awarded:
  - (i) compensation of \$30,000 under s 123(1)(c)(i) of the Act (subject to contribution); and
  - (ii) wages or money lost as a result of the grievance under s 123(1)(b) of the Act (subject to mitigation and contribution).
- (d) Whether the Authority should award a penalty of \$20,000 for a breach of good faith, and whether the penalty should be paid to Ms Stillman.

## **Relevant Background**

[7] Ms Stillman met Ms Evans in mid-2022. Ms Evans was the owner / operator of Brother café and Ms Stillman was a supplies manager for her former employer. The two women formed a friendship and Ms Stillman started working in Brother's kitchen during the weekends from around March 2023. A matter of weeks later, Ms Stillman and Ms Evans started discussing whether Ms Stillman could work fulltime for Brother and they started negotiating terms. Ms Stillman was employed fulltime by Brother on 28 October 2023 as a Senior Chef de Partie. She worked in the kitchen under the Head Chef, who reported to Ms Evans.

[8] Brother turned one year old on 9 November 2023, and Ms Evans sent out an email congratulating staff on the significance of achieving the anniversary. On 15 December Ms Evans sent an email to the "core team" inviting them to a meeting the following week on 22 December 2023. The core team included Ms Stillman and consisted of directors and family members involved in the business, as well as permanent fulltime employees (other than those who were away at the time). The purpose of the meeting was to discuss how to make Brother run more efficiently. Both positive and negative issues were brought to the meeting but Ms Stillman felt the overall vibe of the meeting was positive and she felt excited to be part of the core team working on making changes to Brother's business.

[9] Following the meeting, Brother café was closed for two weeks over Christmas. Staff returned to work on 3 January 2024 to plan for the café reopening the next day. Ms Evans asked Ms Stillman to meet with her, because she said Ms Stillman's name had come up often during the break and she wanted to discuss future planning with her. The meeting took place on 4 January 2024 when the café reopened and both women were working. Ms Evans asked Ms Stillman whether she would be interested in becoming the Front of House Manager (FOH Manager) when the current FOH Manager left for the United Kingdom at the end of April. Ms Stillman was overjoyed to be asked. She responded positively and after the meeting she sent messages to Ms Evans saying that she would not let Brother down.

[10] Over the following days and weeks, Ms Stillman communicated with Ms Evans to try to formalise plans for her promotion. At the café, other staff quickly learned of Ms Stillman's proposed promotion to FOH Manager even though nothing was formalised in writing. On at least two occasions Ms Evans introduced potential new

staff to Ms Stillman as their future FOH Manager. Despite the message being spread by word of mouth, no written plan or paperwork eventuated. On 22 January 2024 Ms Evans told Ms Stillman in a message that a handover plan and timeline were being formulated with the Head Chef to transition Ms Stillman out of the kitchen to the FOH Manager position. From Ms Evans' perspective, there was plenty of time to formalise plans before the existing FOH Manager left at the end of April.

[11] Throughout late December 2023 and January 2024, Ms Evans was also talking to staff about moving with her family to Wellington on a temporary basis to join her husband who had taken up a contract in Wellington. Although Ms Evans is not entirely clear about when she made the decision that she would definitely move, the potential move was openly being discussed in the café and was anticipated for the start of March 2024. Ms Stillman formed the impression there was time pressure to get the details of her move to FOH Manager finalised, so that Ms Evans would have Ms Stillman in place as the second in charge (alongside the Head Chef) before Ms Evans' planned departure.

[12] Early in 2024 Ms Evans approached a family friend, Howard Padman, who was also an accountant and trustee of the family trust because she was concerned about Brother's financial affairs. Ms Evans and Mr Padman met on 23 January and Ms Evans provided Mr Padman with Brother's financial information. Despite Ms Evans' belief that Brother was "breaking even" financially, Mr Padman advised her that Brother had accumulated trading losses of around \$125,000.00 and that these losses were expected to increase into the winter months. They also discussed how costs for the business would likely increase when Ms Evans moved to Wellington.

[13] This was not the news Ms Evans was expecting to hear. She had quarterly meetings with the company accountants and they had not flagged any issues with her. Ms Evans believed there were "orange flags" in Brother's financial situation, whereas Mr Padman told her to view them as "red flags".

[14] Following her conversation with Mr Padman, Ms Evans needed to process what he had said. Brother's financial position was one factor to consider, but Ms Evans was also concerned about her upcoming move to Wellington and the likely impact on the business. Not only would the move result in increased wage demands by her permanent employees, but Ms Evans would not be available to carry out the owner / operator jobs for the business that she had been doing.

[15] On 25 January 2024, Ms Evans sought advice from the Restaurant Association about what she would need to do if the café was to close. Ms Evans says she was told it was “shockingly simple” to close down a café, and she would just need to ensure Brother met the terms of its employees’ agreements about redundancy notice.

[16] On Saturday 27 January 2024, Ms Evans and her husband called a family meeting to discuss the future of the café. Mr Padman also attended this meeting to express his concern about the accumulated trading losses and expected downturn in revenue. Mr Padman was “quite adamant” that he could not see any alternative other than selling or ceasing business. Given the café was on family property and had a role in promoting her brother-in-law’s wines, closure of the café would affect the whole family. However, Ms Evans was clear ceasing or selling the business would be her decision (along with Brothers’ two other directors). Ultimately, at the family meeting it was agreed and decided that the café would close.

[17] After the family meeting on Saturday, Ms Evans moved quickly. The following Monday 29 January 2024 Ms Evans invited all staff to a mandatory meeting to be held two days later on Wednesday 31 January. Staff speculated about the reason for the meeting in a light-hearted way, but most of them assumed the meeting would be about implementing the changes that had been discussed before Christmas. Unrelated to events unfolding at the café, the Head Chef also resigned on 29 January. Ms Evans advised the current FOH Manager and the Head Chef at their weekly meeting on Tuesday 30 January that the café would be closing.

[18] On 31 January 2024 Ms Evans asked Ms Stillman to come into her office one hour before the all-staff meeting to advise her that the café would be closing and the last trading day would be 25 February. Ms Stillman was devastated. Both women were crying. Ms Stillman says she felt crushed and did not remember much of what was said in that meeting. The next day on 1 February 2024 Brother issued a press release to confirm the café’s closure. Ms Stillman was on sick leave with anxiety and depression from 1 to 3 February. Ms Stillman worked at the café on its last day of trading on 25 February 2024. She put on a brave face, but it was a really sad day.

## **Was Ms Stillman unjustifiably dismissed?**

### ***The law on redundancy***

[19] Redundancy is not defined in the Act, but refers to situations when a decision is made by an employer that a position has become superfluous to its business needs and that the employee holding that position has to be dismissed because there are no suitable alternative roles for the employee in the business. Redundancy is a no-fault termination because the end of the employment relationship comes about through no fault of the employee. Ms Stillman's employment agreement contains a clause on redundancy. Under her employment agreement Ms Stillman was entitled to two weeks' paid notice. She was given sick leave and worked out a notice period of 3.5 weeks.

[20] When the Authority considers justification for Brother's actions including the dismissal decision, it does so by applying the test of justification in s 103A of the Act. The Authority must carefully consider on an objective basis whether Brother's actions and how it acted were what a fair and reasonable employer could have done in all the circumstances at the time of the dismissal. In the context of a dismissal for redundancy, it is settled law that if an employer can show the redundancy was genuine and enacted in a procedurally fair manner, then the s 103A test may well be satisfied.<sup>1</sup>

[21] The Authority should first determine if the redundancy was genuine. This means establishing whether there was a commercial rationale for the employer's decision and being satisfied that redundancy was not used as a pretext or an ulterior motive in selecting a particular employee for redundancy. In determining genuineness, the Authority's role is not to substitute its own commercial judgment for that of the employer.

[22] Secondly, the Authority must determine whether the redundancy was enacted in a procedurally fair manner. This means ensuring that notice and consultation requirements have been met. The good faith obligations set out in s 4 of the Act apply. These include a positive disclosure obligation to provide an affected employee with access to information supporting the reason for the redundancy and the detail of how it is proposed to be implemented. Consultation must be a reality and not a charade.<sup>2</sup> It involves stating a proposal that has not been finally decided on, listening to what others

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<sup>1</sup> *Grace Team Accounting Ltd v Brake* [2014] NZCA 541 at [85].

<sup>2</sup> *Stormont v Peddle Thorp Aitken Ltd* [2017] NZEmp 71 at [54].

have to say, considering their responses, and then deciding what will be done. Employees must know what is proposed before they can be expected to give their view on it. This requires the provision of sufficiently precise information in a timely manner. While the employer is entitled to have a working plan in mind, they must be open to changing their mind, or starting the process again.<sup>3</sup>

***Was the redundancy genuine?***

[23] Ms Stillman says Brother's decision to dismiss her was unjustifiable because there was no consultation on the proposal to close the café. While she does not strongly argue against the café closing on the basis of its financial situation, she says the lack of consultation undermines the genuineness of the reasons given, and consequently her dismissal was unjustifiable.

[24] Brother says the redundancies - which affected all staff at Brother café - were for genuine reasons. There was nothing false or disingenuous about its decision to close, and consultation would not have changed the outcome, particularly in relation to Ms Evans moving to Wellington for family reasons which had unavoidable consequences. Brother says decisions were made quickly, but it consulted on how to make the café more financially viable, staff were kept informed about relevant issues affecting the future of the café, and it took and followed advice to support the welfare of Brother's staff.

[25] Based on the information before the Authority, I find Brother had genuine commercial and personal reasons to close the café. Ms Evans gave evidence that although Brother was just managing to pay its bills, it was never in a position to pay dividends or to provide a return on investment. Ms Evans and her husband had to invest money into the café on more than one occasion over winter 2023 to make ends meet and Ms Evans felt they had too much invested for the café to fail. The advice from Mr Padman confirmed what Ms Evans did not want to hear but must have suspected: from a financial perspective there was no alternative other than to sell or cease business. Ms Evans also gave evidence to the Authority of health issues she suffered from June 2023, culminating in a personal tragedy in early 2024. The stress of managing the business was impacting Ms Evans' health and her family, and was also a significant influence in the decision to close Brother café. I find the redundancy was genuine.

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<sup>3</sup> Above n2.

*Was the process followed fair?*

[26] I turn to consider whether the redundancy was enacted in a procedurally fair manner including whether Ms Stillman was given reasonable notice and the consultation requirements have been met.

[27] Ms Stillman says Brother failed to consult with her and it therefore failed to meet its statutory obligations to act as a fair and reasonable employer.

[28] Brother says it is a relatively small company without a dedicated HR department or specialised employment knowledge and it tried to follow a fair a process. Ms Evans gave evidence that she learned employment law rules herself and took advice from the Restaurant Association after the decision had been made to close the café. Brother says the purpose of the meeting on 22 December 2023 was to discuss that the café needed to make more money and was the opportunity for staff to engage on the financial viability of the café given Ms Evans' impending move to Wellington.

[29] However, there are two reasons that I cannot accept that was the purpose of the meeting on 22 December. Firstly, the parties both accept that financial viability and the financial circumstances of the café were not discussed at the December meeting. There was no discussion about Ms Evans' impending move to Wellington, which is consistent with Ms Evans' estimation that she did not make the final decision to move until early 2024. I prefer Ms Stillman's view that the invitation and purpose of the meeting was not about financial viability or how the café might be managed once Ms Evans moved to Wellington, but was about future planning to improve the business model. The invitation to the meeting refers to improving the "current model" and "turning the dial up a bit now that we're going into Year 2". The only mention of Brother's finances was that the current model was "more or less breaking even", which was not an alarming position for a new café within its first year of business and would not have objectively been a cause for concern about the café potentially closing.

[30] Secondly, based on Ms Evans' evidence, Brother was not contemplating or proposing closure of the café on 22 December 2023 and therefore the purpose of the meeting could not have been to genuinely consult about the café closing. In December 2023, Ms Evans had not yet met with Mr Padman and had not yet discovered how financially precarious the café's situation was. Ms Evans was still hopeful about making improvements to the business. She obviously knew that she had been required

to invest money into the business on a couple of occasions throughout 2023, but I accept her evidence that she genuinely believed the business was breaking even until late January 2024. Brother cannot have genuinely consulted on 22 December 2023 about a proposal to close that was not within contemplation until late January 2024.

[31] For her part, Ms Stillman says she had no idea at the December meeting that Brother was in dire financial circumstances. She says Ms Evans never discussed Brother's finances with her personally, and conversations around this time within the "core team" were always along the lines of "things have got to change", rather than "the doors are going to shut". She also points out that Brother's investment into the business and talk about future planning were actions that were inconsistent with a business that was struggling financially and considering closing.

[32] Based on the evidence before the Authority, I conclude that Brother's consideration of closing the café took place between 23 January and 26 January 2023, and the decision to close the business was made at the family meeting on 27 January 2023. There was no consultation with staff between 23 January and 27 January and there was no evidence to suggest that Brother would have been open to reversing its decision about closing the café after it made the announcement to staff on 31 January. Ms Stillman says she was blindsided by the discussions on 31 January and had no idea that Brother's financial circumstances were so dire. No information was provided to Ms Stillman at all about the financial situation of the business, whether before or after the decision had been made to close the café.

[33] Ms Evans says that once the decision had been made to close the café, Brother acted quickly and did not "sit" on the issue. Staff were invited to a meeting, Ms Evans personally talked to the FOH Manager and Head Chef, and she advised Ms Stillman prior to the all-staff meeting. Ms Evans says Brother tried really hard to get the process morally right, always acted with staff welfare in mind and she was particularly conscious of the significance of the decision to close the café on Ms Stillman personally. While Brother may have been well-intentioned in terms of the speed of the process, I am unable to accept that the procedural deficiencies in Ms Stillman's redundancy were minor defects. Quite simply, staff including Ms Stillman were not consulted on the decision to close the café.

[34] Looking objectively at the process Brother followed, I conclude Ms Stillman's redundancy was not procedurally fair. While legitimate collapse of a business is a

genuine reason for redundancy, there remains a statutory obligation to follow a fair process when making employees redundant. The decision to close the café and make all staff including Ms Stillman redundant was made without consultation. The financial situation of the café was not discussed in an open and transparent way, and there was no discussion with staff about the proposal to close before the decision was made. Ms Evans says she felt constrained in her ability to talk openly about potential closure because she did not want to instil fear. However, because the possibility of closure was not raised openly and transparently with employees, Brother failed to meet notice and consultation requirements under the Act and has not acted as a fair and reasonable employer could.

[35] The lack of process has impacted the fairness and reasonableness of the decision to dismiss Ms Stillman on the basis of redundancy. The procedural defects I have identified above ended Ms Stillman's employment relationship in a manner that did not fall within the parameters of what a notional, fair, and reasonable employer could have done in all the circumstances at the time. I find that Ms Stillman was unjustifiably dismissed.

### **Remedies**

[36] I have found Ms Stillman was unjustifiably dismissed from her employment and she is therefore entitled to an assessment of remedies.

[37] Ms Stillman seeks:

- (a) Compensation under s 123(1)(c) of the Act of up to \$30,000.00.<sup>4</sup>
- (b) Reimbursement of lost wages under s 123(1)(b) of the Act for the period of one week following the end of her employment until she started her new role; and salary shortfall for a period of 12 weeks, being the difference between her salary at Brother and her new role.

### *Compensation*

[38] Ms Stillman gave evidence of the physical and emotional impacts on her. She says the announcement blindsided her. The loss of her job at Brother was the loss of her career. She also felt humiliated: her trust had been misplaced and she felt like she

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<sup>4</sup> With reference to Band 2 in: *GF v Comptroller of the New Zealand Customs Service* [2023] NZEmpC 101.

had been “played”. The media release about the café’s closure caused further hurt and humiliation because the impact on staff was not mentioned. Ms Stillman’s daughter and some of her friends worked at the café and lost their jobs. Her industry contacts were asking Ms Stillman why she had not been asked to manage the café once Ms Evans moved away, and Ms Stillman had no answer for that.

[39] Ms Stillman’s brother Mr Yock says Ms Stillman was absolutely distraught when she was told the café was closing. She was frantic with stress and worried about her future. Mr Yock says Ms Stillman felt betrayed, blamed herself and her confidence had been shattered.

[40] Ms Stillman says she had no idea about the stress and suffering that Ms Evans was going through at the time. However, Ms Stillman says an award of \$20,000.00 to \$25,000.00 would be warranted, and Brother’s deceptive conduct - which she categorises as “egregious” - warrants a higher award of \$30,000.00.

[41] Ms Evans says she was aware of how significant the impact of losing her job would be on Ms Stillman, but says she tried to do everything to make sure she was looked after including actively ringing her industry contacts to put Ms Stillman forward for a new job.

[42] I have considered the general range of compensation awards in other cases and particularly those relied on in submissions from both parties. I take into account the impacts on Ms Stillman because of the complete lack of process, even though I accept that Ms Stillman’s redundancy was for genuine business reasons and was therefore substantively justified. Based on the evidence before the Authority, I am not persuaded there is any evidence of alleged deceptive conduct by Brother. Standing back to objectively assess the impact as best I can, and subject to any reduction for contribution, I consider an appropriate award of compensation under s 123(1)(c)(i) of the Act is \$20,000.00.

#### *Loss of benefits - wages*

[43] Under s 123(1)(b) of the Act, the Authority is able to order an employee to be reimbursed a sum equal to the whole or part of any wages or other money lost by the employee as a result of the grievance. Section 128 provides that the Authority must order the employer to pay lost remuneration or three months’ ordinary time

remuneration where the Authority determines an employee has a personal grievance and has lost remuneration as a result of the grievance.

[44] In the context of a redundancy dismissal which was found to be for genuine business reasons, the Court has cautioned that loss must be attributable to the personal grievance and has endorsed the Authority's approach in limiting lost remuneration to the amount of time it would have taken to complete proper consultation in the case of a redundancy.<sup>5</sup> In that case, it was considered that consultation would have been unlikely to run for more than two weeks, and a different outcome was very unlikely. Two weeks' wages were therefore awarded.

[45] Ms Stillman claims \$1,826.92 in lost wages, being one week's salary after her employment with Brother ended (\$1,250.00) plus \$576.92 in shortfall, being the difference in wages between her role at Brother and her new role for a period of 12 weeks after her employment ended.

[46] The facts are straightforward and uncontested. Ms Stillman looked for work the day after the redundancy announcement was made. She lined up seven interviews, and was offered three to four roles. She ultimately chose a role which was the best fit for her family taking into account both salary and location. Ms Stillman secured new employment while working out a four-week paid notice period, which was two weeks more than the two-week contractual notice period in Ms Stillman's employment agreement. Ms Stillman then chose to take a week's break in between periods of employment.

[47] Ms Stillman acted admirably quickly to mitigate her losses in terms of lost employment. It was reasonable that Ms Stillman wanted a break before starting a new job, but that was her choice. Any loss of income for this period was not directly attributable to Ms Stillman's personal grievance and therefore is not a loss attributable to Brother. I decline to make orders.

[48] Ms Stillman also claims a modest amount by way of shortfall between her salary at Brother and her new role, for a period of 12 weeks amounting to \$576.92. Looking at matters objectively, the four week paid notice period (which was double the notice period allowed for in her employment agreement) provided Ms Stillman with sufficient time to obtain three to four job offers. The loss she claims in relation to taking a lower

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<sup>5</sup> *Butler v Ohope Chartered Club Inc* [2021] NZEmpC 80, [2021] ERNZ 312.

paid job is not loss attributable to her personal grievance and is therefore not a loss attributable to Brother. I decline to make orders.

### *Contribution*

[49] In deciding the nature and extent of remedies for any personal grievance, I must consider the extent to which Ms Stillman may have acted in a way that contributed to the situation that gave rise to her grievance.<sup>6</sup> Ms Stillman did not contribute to her redundancy and there is no suggestion by Brother to the contrary. There is no basis to reduce an otherwise appropriate award on the basis of any contribution by Ms Stillman and I decline to do so.

### **Penalty**

[50] Ms Stillman asks the Authority to impose a penalty for a breach of good faith under s 4A of the Act. She submits a penalty is warranted because Brother's conduct was serious, deliberate and sustained and designed to undermine the employment relationship. Ms Stillman says if not intentional, Brother's actions through Ms Evans were at least negligent. Brother deliberately misled and deceived Ms Stillman into thinking she not only had a secure job, but would be promoted to FOH Manager. The impacts on Ms Stillman, she says, were adverse and significant. Ms Stillman says even after Brother had been advised of its financial circumstances by Mr Padman, Brother deliberately chose not to do anything to mitigate the impacts of the decision to close the café. Ms Stillman says imposing a penalty under s 4A of the Act would achieve the objectives of both general and specific deterrence given the company remains registered. In summary, she says Brother's breach of good faith is culpable conduct warranting a penalty and that a portion of the penalty should be paid to her.

[51] Brother says no penalty is appropriate because there was no serious, deliberate and sustained breach, and no intentionally malicious conduct or evidence of deception. Brother rejects the suggestion that Ms Evans deliberately misled Ms Stillman. The decision to close the café was made and communicated quickly. Given its financial circumstances, Brother says it has no money to pay a penalty.

[52] A fair and reasonable employer is expected to comply with its statutory obligations which include the good faith obligations and particularly the requirement

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<sup>6</sup> Section 124 of the Act.

for both parties to be active and constructive in establishing and maintaining a productive employment relationship in which the parties are responsive and communicative.<sup>7</sup> When an employer is proposing to make a decision that will, or is likely to, have an adverse effect on the continuation of employment of one or more employees, the employer is required to provide the affected employees with access to relevant information and an opportunity to comment on the information before the decision is made.<sup>8</sup>

[53] The failure by Brother to discharge its obligation to be active and constructive in establishing and maintaining a productive employment relationship, and its specific disclosure obligations in terms of proposing and consulting on potential redundancy amounted to breaches of its good faith obligations to Ms Stillman. However, those procedural shortcomings have been addressed in terms of Ms Stillman's personal grievance claim, and in the remedies awarded to Ms Stillman. The evidence does not support that any breaches of good faith were deliberate, serious or sustained. No penalty is warranted in the circumstances, and I decline to order one.

### **Orders**

[54] Ms Stillman's claim that she was unjustifiably dismissed from her employment with Brother has been successful and remedies are appropriate.

[55] I order within 28 days of the date of this determination Brother Coffee Limited is to pay Rach Stillman compensation for humiliation, loss of dignity and injury to feelings under s123(1)(c)(i) of the Act for her unjustified dismissal, in the amount of \$20,000.00.

### **Costs**

[56] Costs are reserved. The parties are encouraged to resolve any issue of costs between themselves.

[57] If the parties are unable to resolve costs, and an Authority determination on costs is needed, Ms Stillman may lodge, and then should serve, a memorandum on costs within 28 days of the date of this determination. From the date of service of that memorandum Brother will then have 14 days to lodge any reply memorandum. On

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<sup>7</sup> Section 4(1A)(b) of the Act.

<sup>8</sup> Section 4(1A)(c) of the Act.

request by either party, an extension of time for the parties to continue to negotiate costs between themselves may be granted.

[58] The parties can anticipate the Authority will determine costs, if asked to do so, on its usual “daily tariff” basis unless circumstances or factors, require an adjustment upwards or downwards.<sup>9</sup>

Natasha Szeto  
Member of the Employment Relations Authority

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<sup>9</sup> For further information about the factors considered in assessing costs see:  
[www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1](http://www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1)