

Background

[3] The Scout Association of New Zealand is a registered charity which depends for its funding on fees paid by scouts and their parents. It employs only a small number of staff, and relies to a great extent on volunteers to carry out its activities and learning programmes with young people nationwide.

[4] Mr Uerata-Jennings was one of a handful of senior staff employed in the organisation's National Office in Wellington. As National Operations Manager he was entrusted with a Scouts' travel card for his business travel and a credit card for business expenses.

[5] For the first 2½ years of his employment there were no issues over Mr Uerata-Jennings' travel arrangements and he charged only his Scouts' business travel to his employer. After that he began charging personal travel to his travel card as well. Over a period of 3 years and 4 months he charged over \$20,000 of personal travel and expenditure to the Scouts' travel and credit cards. During that time he repaid approximately \$8,000. At the time of his dismissal Mr Uerata-Jennings had an outstanding debt of \$12,690.

[6] Scouts had a Business Expenses policy that was not widely known among its employees. The organisation did not have a specific credit card policy until October 2011. That policy, the National Credit Card Policy, specified that Scouts' credit cards were only to be used for essential expenses directly related to the role. The policy listed a number of items for which the credit cards were not to be used, except with the express approval of the Chief Executive Officer (CEO). The list of such items included private or personal expenses.

[7] The CEO of Scouts at the relevant time, Christopher Hooper, became aware of Mr Uerata-Jennings' travel card situation on 9 December 2011. After carrying out a preliminary investigation he met briefly with Mr Uerata-Jennings on 14 December 2011 and suspended him from his employment the same day, confirming the suspension in writing. Mr Uerata-Jennings has not raised any issue in relation to his suspension.

[8] Mr Hooper's letter of 14 December 2011 required Mr Uerata-Jennings to attend a meeting on 15 December 2011 in the offices of the Scouts' solicitors. In the letter Mr Hooper referred to Mr Uerata-Jennings' confirmation, at their preliminary

meeting that day, of his use of the Scouts' travel card *for private and unauthorised use*. He told Mr Uerata-Jennings his actions may constitute serious misconduct and form grounds for dismissal. He encouraged Mr Uerata-Jennings to seek advice before the meeting, and invited him to bring a support person or adviser. Mr Hooper notified Mr Uerata-Jennings in the letter that he would need to make arrangements to repay immediately the outstanding amount owing to Scouts. He asked Mr Uerata-Jennings to confirm, at the meeting on 15 December 2011, how this would be done.

[9] Mr Uerata-Jennings attended the 15 December meeting alone, saying he had not had sufficient time to engage a lawyer. Present at the meeting were Mr Hooper, Murray Charlesworth, who is the National Secretary of Scouts, and Christine Batt, a Partner in the law firm Tripe Matthews Feist. Mr Uerata-Jennings was offered the opportunity to adjourn the meeting but elected to continue.

[10] In the day since their previous meeting it had come to Mr Hooper's attention that Mr Uerata-Jennings had used his Scouts' credit card for private petrol and accommodation expenditure earlier that month. Mr Hooper raised that expenditure in the meeting of 15 December 2011.

[11] Mr Uerata-Jennings put forward 2 possibilities for repayment of the debt: firstly, the forfeiture of his annual leave and, secondly, the raising of a loan. Mr Hooper again informed Mr Uerata-Jennings the allegations against him were serious and could result in his dismissal. He offered him the opportunity to attend a further meeting, with representation, on 22 December 2011.

[12] Ms Batt followed up the 15 December 2011 meeting by letter to Mr Uerata-Jennings the same day, confirming the offer of the further meeting on 22 December 2011. As Mr Uerata-Jennings had indicated at the meeting that he did not necessarily accept the Scouts' figures for expenditure and repayments, Ms Batt arranged for copies of the documentation supporting the calculations to be made available to him.

[13] At Mr Uerata-Jennings' suggestion the second meeting was held at 4 p.m. on 22 December 2011. He attended the meeting alone saying he had taken legal advice but decided to attend without representation. Mr Hooper had left on an overseas trip 4 days earlier and delegated the decision-making function to Mr Charlesworth, who was Acting CEO in his absence. Ms Batt was also present.

[14] In the course of the meeting Mr Uerata-Jennings indicated his belief that his employer's process was flawed and the outcome was predetermined. He did not allude to his earlier suggested methods for repayment of the debt but initiated discussion over terms on which he would be prepared to resign. The meeting concluded with Ms Batt undertaking to contact him after Mr Charlesworth had had the opportunity to consider and discuss his proposed terms for resigning. No agreement was reached on terms and Mr Charlesworth notified Mr Uerata-Jennings by letter dated 23 December 2011 of his summary dismissal for serious misconduct.

Issues

[15] The primary issue for determination is whether the Scout Association of New Zealand was justified in dismissing Mr Uerata-Jennings in December 2011. In considering that matter I will consider a range of subsidiary issues including whether Scouts:

- predetermined the outcome of its investigation;
- prejudiced its process by Mr Hooper's absence from the final meeting; and
- treated Mr Uerata-Jennings disparately in relation to other employees who had used Scouts' credit facilities for personal expenditure.

The law

[16] Whether or not an action is justifiable is determined on an objective basis by applying the test in s.103A of the Employment Relations Act 2000 (the Act). The test is whether the employer's actions, and how the employer acted, were what a fair and reasonable employer could have done in all the circumstances at the time the action occurred.

[17] In applying the test I am required to consider whether, before dismissing Mr Uerata-Jennings summarily, Scouts:

- i. investigated the allegations against him sufficiently, taking into account the resources available to it; and
- ii. raised its concerns with him; and
- iii. gave him a reasonable opportunity to respond to its concerns; and

- iv. genuinely considered his explanation in relation to the allegations against him.

[18] I may also consider any other factors I think appropriate, and must not determine a dismissal to be unjustifiable solely because of minor defects in the employer's process that did not result in Mr Uerata-Jennings being treated unfairly.

Evidence, analysis and findings

[19] Mr Hooper's employment with Scouts ended before the investigation meeting and he did not attend it because of work commitments. He submitted a signed, but unsworn, brief of evidence which I have considered. I have taken into account the untested nature of Mr Hooper's evidence in according weight to any of his statements or assertions that were contested by Mr Uerata-Jennings.

The investigation

[20] It was Mr Hooper who started off the process of investigation, although it was Mr Charlesworth who completed the process under delegated authority once Mr Hooper left on a planned overseas trip. Mr Uerata-Jennings criticises Scouts' procedure, claiming he was given unreasonably short notice to attend the disciplinary meeting on 15 December 2011 following his initial meeting with Mr Hooper a day earlier. He had insufficient time to gather his thoughts and arrange legal representation, particularly with Christmas so close.

[21] That claim would have merit but for the fact that, when he arrived at the meeting of 15 December 2011 without a representative or support person, Mr Uerata-Jennings was offered the opportunity to adjourn until he had time to organise representation. His decision to proceed with the meeting, and then decide whether he needed representation, undermines his claim of having to attend at unreasonably short notice.

[22] Mr Uerata-Jennings acknowledged he could have sought an adjournment but said he decided to proceed because he was confident he could explain the allegations of misuse of the travel card. His explanations were that he had a longstanding arrangement with the Finance Manager to repay any personal travel costs and he construed that as authorisation for the arrangement. He was unaware she lacked the authority to approve it and he did not consider it to be "unauthorised" expenditure.

He fully intended to repay the debt and his employer benefited from the air points it accrued through his personal travel.

[23] Ms Batt and Mr Charlesworth gave evidence that in the meeting of 15 December 2011 Mr Uerata-Jennings acknowledged his actions were unacceptable and he had misjudged advising the CEO. In the investigation meeting Mr Uerata-Jennings denied saying that and maintained his belief that his expenditure was acceptable and authorised. I prefer the evidence of Ms Batt and Mr Charlesworth which is supported by Ms Batt's contemporaneous notes of the meeting.

[24] Mr Uerata-Jennings also asserts he was blindsided in the 15 December 2011 meeting by the additional allegation of the misuse of his credit card, as this had not previously been disclosed to him. I am not convinced this had the effect Mr Uerata-Jennings claims. Mr Hooper's evidence was that he told Mr Uerata-Jennings on 14 December 2011 the investigation into his personal expenditure was continuing. He specifically asked Mr Uerata-Jennings whether there was further expenditure or related matters of which he should be aware. Mr Uerata-Jennings did not deny Mr Hooper had asked this, or that he had told Mr Hooper there were no further matters.

[25] Mr Uerata-Jennings had made the credit card purchases within the past 2 weeks and should not have either forgotten them, or been surprised that they had come to his employer's attention. The fact that Mr Hooper became aware of the transactions after the initial meeting on 14 December 2011, but too late to be included in the letter confirming the meeting of the following day, did not preclude Scouts from raising that expenditure as a further issue for discussion and explanation. Mr Uerata-Jennings had already been put on notice that his charging of personal expenditure to his employer's credit facility was under investigation; that it could constitute serious misconduct; and could be grounds for dismissal.

[26] In any event, the meeting of 15 December 2011 was not Mr Uerata-Jennings' only opportunity to respond to those fresh allegations or to the travel card allegations he had already been alerted to and had acknowledged. He was offered a second meeting on 22 December 2011 to give him the opportunity to arrange legal representation and to provide any further responses and explanations for his actions. He acknowledged it was his choice to attend the meeting of 22 December 2011 without a representative, after taking legal advice.

[27] Mr Charlesworth said the meeting of 22 December 2011 provided Mr Uerata-Jennings the opportunity to provide further explanations, and submissions on any actions Scouts may take. Mr Uerata-Jennings provided little by way of further explanation but said the Scouts' credit card policy had not been circulated and that the CEO, the Finance Manager and the Senior Development Manager had all used the Scouts' credit card for personal use. Mr Uerata-Jennings also alleged in that meeting that his employer was following a flawed process, and was not treating him equally. He tendered his provisional resignation on terms that, ultimately, his employer was not willing to agree.

[28] The procedural flaws Mr Uerata-Jennings raised were the unreasonably short notice for the 15 December 2011 meeting, the raising of new issues (the December credit card expenditure) at that meeting, and his employer's predetermination of the outcome of its investigation. He also took issue with a lack of documentation at the previous meeting proving the amount of debt, but acknowledged that had since been provided. I have already dealt with the first 2 of those matters he raised.

Did Scouts predetermine the outcome of its investigation?

[29] Mr Uerata-Jennings cited 3 factors in support of his contention that the outcome of his employer's investigation was predetermined. The first was that Mr Hooper's letter of 14 December 2011 did *not envisage any other outcome but dismissal. That is, it (did not) list a range of possible outcomes – warnings etc “up to and including dismissal”*. The second factor was the speed of the process which, in Mr Uerata-Jennings' view *smacks of an organisation that wanted this matter “tidied up before Christmas” rather than taking the time to deal with this situation in a fair and considered manner*. The third factor was a comment he alleges was made by Ms Batt in the 15 December 2011 meeting.

[30] I do not regard the first factor as evidence of predetermination. The letter of 14 December 2011 outlined the matters discussed at the meeting between Mr Hooper and Mr Uerata-Jennings that day and referred to Mr Uerata-Jennings' confirmation that he had used his Scouts' travel card for *private and unauthorised use*. It formally advised Mr Uerata-Jennings *that this may be serious misconduct and grounds for your dismissal* before confirming his suspension from employment. I consider it reasonable for Mr Hooper to alert Mr Uerata-Jennings to the seriousness which might be accorded to his actions, and to the worst potential outcome in that event. I do not

regard it as an indication that it was the only possible disciplinary outcome Scouts would contemplate.

[31] It is also relevant that, although it was Mr Hooper who wrote the letter of 14 December 2011, it was Mr Charlesworth who made the decision to dismiss Mr Uerata-Jennings while he was Acting CEO after Mr Hooper had gone overseas. Mr Charlesworth's evidence, which I accept, was that Mr Uerata-Jennings was a valued employee and a great deal of thought was given to the appropriate outcome from the investigation. I concluded from his evidence that Mr Charlesworth would have liked to retain Mr Uerata-Jennings in Scouts' employment if possible, but ultimately decided the breach of trust was so serious that he could not do so.

[32] The second factor Mr Uerata-Jennings alleged as an indication of his employer's predetermined outcome was the speed of the process. I agree the process was short but disagree with his conclusion that this indicated predetermination by his employer. An employer is required to carry out a sufficient investigation and comply with other procedural requirements before dismissing an employee. There is no statutorily specified time frame for undertaking those actions, and what constitutes the appropriate time frame will vary according to the circumstances. The issue of whether the Scouts' investigation was sufficient is one I will return to later.

[33] The third factor indicating predetermination according to Mr Uerata-Jennings related to a comment allegedly made by Ms Batt in the course of the meeting of 15 December 2011. He claims that, when Mr Hooper presented the credit card statement showing his transactions from earlier that month with a request for an explanation, Ms Batt commented "well he's sacked for that".

[34] Ms Batt vehemently denied having made that comment, and Mr Charlesworth also vehemently denied she had made it. Presented with conflicting evidence I have to make a finding as to credibility. I prefer the evidence of Ms Batt and Mr Charlesworth, both of whom struck me as honest and reliable witnesses.

Was Mr Uerata-Jennings unfairly prejudiced by Mr Hooper's absence from the meeting of 22 December 2011?

[35] Mr Uerata-Jennings referred in his evidence to Mr Hooper being *the key and ultimate decision maker* and alleged it was unfair that Mr Hooper could not hear from him at the meeting of 22 December 2011. I find Mr Uerata-Jennings to be mistaken

in his view that Mr Hooper was the decision maker. Mr Charlesworth and Ms Batt both gave evidence, which I accept, that it was Mr Charlesworth who made the decision to dismiss Mr Uerata-Jennings. As Acting CEO he had the delegated authority to do that, and he exercised that delegation following discussion with the then National Chairperson, Noel Walker.

[36] Apart from the initial meeting of 14 December 2011, which took place between Mr Hooper and Mr Uerata-Jennings, Mr Charlesworth had been involved throughout the process. There is no evidence that Mr Hooper, who was on holiday in the United Kingdom, played any part in the decision to dismiss Mr Uerata-Jennings.

Was Mr Uerata-Jennings accorded disparate and inequitable treatment?

[37] As noted above, Mr Uerata-Jennings alleged at the meeting with his employer on 22 December 2011 that *other managers... routinely used their card for personal purchases*. He queried whether it was equitable that they remained in employment while he was summarily dismissed. He claimed Mr Hooper had put personal transactions on his Scouts credit cards as had the Finance Manager, Ms Ward, and the Senior Development Manager. He said the practice was part of the culture of the office.

[38] Tony Hickmore, a former National Fundraising and Marketing Manager of Scouts, supported Mr Uerata-Jennings' explanation about the culture of the office. Mr Hickmore left the organisation in 2012 but said that during his 6 years of employment with Scouts he had used his employer's credit card for personal expenditure on 3 occasions. It was something he had also done in his pre-Scouts employment. He would simply tell the Finance Manager what personal expenditure he had incurred and would normally repay the amount within the next pay cycle, or at the latest within a month.

[39] Mr Hickmore said the charging of personal expenses to Scouts' credit facilities was not a secret and was done quite openly. He described it as common office practice. However, he acknowledged he had never told the Chief Executive, and accepted Mr Charlesworth's evidence that he did not ever tell him of the practice either. Mr Hickmore also acknowledged he did not know which employees used their employer's credit facilities for personal use, other than Mr Uerata-Jennings. He said he believed others had done so, but that it was a guess on his part.

[40] Mr Hickmore said his use of his Scouts' credit card for personal expenditure was *extremely small* and stopped altogether after Scouts issued a Credit Card Policy in October 2011. He recalled using his card for personal expenditure in 2008 and 2009 but probably had not done so after that. He had never been taken to task by his employer for using his Scouts credit card for personal purposes.

[41] Ms Ward acknowledged she had personally used a Scouts' credit card once, and Mr Uerata-Jennings had booked personal travel for her on 3 occasions. She was adamant she had authorisation from either the CEO or from Mr Uerata-Jennings for the credit card expenditure, which she repaid in full within just over a month of Scouts receiving the invoice. She said the travel must have been approved by Mr Uerata-Jennings as it had gone through him. She had repaid the personal travel within approximately a month of invoicing. At the time of the investigation meeting Ms Ward was facing a disciplinary investigation because of her actions.

[42] Shortly before the Authority's investigation meeting Ms Ward had carried out a complete search of personal transactions using the Scouts travel and credit cards over the past 4 years. The search confirmed Mr Hooper had incurred personal expenditure on a Scouts' credit card. In all cases he had reimbursed his employer shortly after the costs were incurred. He had written authorisation from the National Chairman of Scouts in some instances.

[43] Other personal expenditure incurred by 2 South Island-based staff, one inadvertently, had been reimbursed in full without delay. Ms Ward's research confirmed that Mr Hickmore had incurred personal expenditure on Scouts' credit facilities on 3 occasions. These occurred between 31 July 2008 and 25 March 2009 and, in each instance, Mr Hickmore reimbursed his employer within 5 – 6 weeks. His third and final purchase had been approved by Mr Uerata-Jennings, but there was no documented authorisation for the first two purchases.

[44] Mr Charlesworth, who had previously been National Development Manager, had on one occasion booked travel for his wife to accompany him on a business flight within New Zealand. He had done so with the authorisation of the CEO and had promptly reimbursed his employer for the amount of her fare.

[45] Mr Charlesworth disputed Mr Uerata-Jennings' claim to have received inequitable treatment in being dismissed when other employees who had used their

employer's credit facilities for personal purposes had suffered no punishment. He had not known Mr Hickmore had charged his employer for personal expenditure during his employment and he would have reported it to the CEO if he had known. The same applied to Ms Ward or any other employee who did not have authorisation for what they did. He did not understand how they considered their actions to be acceptable.

[46] I do not find Mr Uerata-Jennings' claim of disparate treatment to be compelling. There is no valid comparison to be made between his practice and that of employees who charged private travel and/or expenditure to their employer's credit facilities with the authorisation of their employer.

[47] Mr Uerata-Jennings' practice is more comparable to that of Mr Hickmore, who had no authorisation for using his employer's credit facilities and whose evidence suggested it was a normal and acceptable thing to do. However there are 2 distinct differences in their situations. Firstly, Mr Hickmore's actions were unknown to his employer until well after his employment with Scouts had ended so there could be no possibility of disciplinary action being taken against him. Secondly, on the 3 instances he charged personal expenditure to his employer, he repaid the amount in full within six weeks.

[48] Ms Ward's use of her employer's credit facilities is similar to that of Mr Hickmore's. On the few occasions she charged travel and personal expenditure to Scouts, she repaid the amounts promptly and in full. She claimed to have authorisation from either the CEO or Mr Uerata-Jennings on each occasion although she had no independent evidence of that. Her credit facility use came to light in the course of Scouts' investigation, and she was, at the time of the Authority's investigation meeting, facing disciplinary action for it.

[49] Mr Hickmore's and Ms Ward's actions, however questionable, are very different from Mr Uerata-Jennings' practice over 3½ years. He appeared to use his employer as a personal bank to finance his and his family's lifestyle choices over that period. He was making regular repayments, but was increasing his debt at a faster rate than he was repaying it.

Did Scouts meet the requirements of section 103A?

[50] I find Scouts raised its concerns with Mr Uerata-Jennings about his travel and credit card actions and gave him sufficient opportunity to respond to them. It did not predetermine its decision to dismiss him and it did genuinely consider his explanations for his actions before reaching that decision.

[51] However, there is a question over the sufficiency of the investigation carried out by Scouts and whether it met the requirements of s. 103A. There is no evidence that it properly investigated Mr Uerata-Jennings' allegation that other senior employees routinely charged personal expenditure to Scouts' credit facilities until after Mr Uerata-Jennings' dismissal.

[52] Mr Hooper's evidence refers to the investigation he carried out but does not establish when he undertook it. Mr Uerata-Jennings did not make the allegation about other senior managers charging personal expenditure to Scouts until the meeting of 22 December 2011, which was after Mr Hooper had left for the United Kingdom. This suggests that any investigation Mr Hooper undertook into that allegation was made after Mr Uerata-Jennings was dismissed.

[53] The Scouts' research into personal expenditure by employees over the past 4 years was undertaken in February 2013, more than a year after Mr Uerata-Jennings' dismissal. If it had carried out the research during the investigation into his actions, it would have known about Mr Hickmore's and Ms Ward's personal expenditure charged to Scouts' credit facilities. It would not have had to rely on the memories of employees on those matters. It would also have known about Mr Charlesworth's one authorised instance of charging personal expenditure, and known that Mr Hooper had charged personal expenditure to Scouts, no doubt with authorisation, on more than the one instance he cited in his written evidence. This is information that was relevant to Scouts' deliberations at the time of making the decision to dismiss Mr Uerata-Jennings.

[54] The 22 December 2011 meeting occurred at 4 p.m., and there appeared to be more of a focus by Scouts on Mr Uerata-Jennings' offer to resign on specified terms than on the allegations he had made about the practice of other senior managers using Scouts' credit facilities for personal expenditure. There was clearly some discussion about other managers' practices as Ms Batt referred in her evidence to questioning Mr

Uerata-Jennings about the timing of the Finance Manager's purchase of a television in relation to the circulation of the Scouts' credit card policy. However, there is no evidence of any further investigation of Mr Uerata-Jennings' allegations in the 26 hours following that meeting before he was summarily dismissed.

[55] I consider that a fair and reasonable employer would have properly investigated Mr Uerata-Jennings' allegations before it dismissed him to ensure it was not treating him more harshly than other employees who also charged personal expenditure to their employer's credit facilities. It was a flaw in the Scouts' process that could not be corrected post-dismissal.

[56] In coming to that conclusion I have considered the resources available to Scouts. As I have already noted, while it is a large nation-wide organisation, it has a relatively small complement of employees. It does, however, have access to legal advice and Mr Hooper involved its legal advisers from the preliminary stage of its investigation. I consider Scouts had adequate resources to carry out a sufficient investigation, but failed to do so.

[57] This flaw in the Scouts' investigation was unlikely to have changed the outcome for Mr Uerata-Jennings or resulted in him being treated unfairly. The scale of the expenditure he charged to his employer over an extended period, and the size of the outstanding debt put his actions in a different category from any other employee. However, I cannot regard the flaw as a minor procedural flaw in terms of s. 103A(5)(a) of the Act and I am therefore led to conclude that Mr Uerata-Jennings' dismissal was unjustifiable.

Remedies

[58] Having determined Mr Uerata-Jennings' dismissal to be unjustifiable, I am obliged to consider what remedies are appropriate for his personal grievance. In addition to monetary remedies Mr Uerata-Jennings seeks an apology, which is not within my power to award. The monetary remedies he seeks are lost wages and compensation.

[59] Mr Uerata-Jennings says he has been unable to find employment since his dismissal from Scouts despite applying for 30 – 50 jobs nationally and internationally. He provided only verbal evidence of his search for employment. In the absence of satisfactory evidence of his attempts to mitigate his loss by seeking other

employment, I am unwilling to award him more than the 3 months' remuneration provided under s. 128 (2) of the Act. Evidence was given that Mr Uerata-Jennings' salary was \$78,000 at the date of his dismissal.

[60] He also seeks compensation under s. 123 (1)(c)(i) of the Act for the hurt and humiliation he says he has suffered. Mr Uerata-Jennings' evidence about this was verbal and appeared to arise from the financial consequences of the loss of his employment, rather than from the fact of that loss. Nonetheless I accept the loss of his employment would have been distressing to him and I assess the appropriate compensation to be \$5,000.

Contribution

[61] Having found that Mr Uerata-Jennings' dismissal was unjustifiable I must consider whether his actions contributed to the situation that gave rise to his personal grievance.¹ As Travis J noted in *Villegas v Visypak (NZ) Ltd*²:

Previous authorities have established that the actions of an employee must be blameworthy conduct before they can constitute contributory conduct and affect the nature and extent of the remedies to be awarded.

[62] I consider Mr Uerata-Jennings' actions to be significantly blameworthy conduct. I have considered and rejected his claim that his employer must acknowledge some culpability because of its lack of written policies over the use of its travel card and, until October 2011, over the use of its credit card. I consider Scouts should have been able to rely on employees, particularly those at senior management level, to know that its credit facilities were for business, not personal, expenditure. I do not accept that Mr Uerata-Jennings needed written policies to tell him that.

[63] In any event, Mr Uerata-Jennings acknowledged his awareness of the Scouts' credit card policy introduced in October 2011 which made it clear that personal expenditure was not to be charged to the Scouts' credit card without the express authorisation of the CEO. He charged 3 personal items of expenditure to his credit

¹ Section 124 Employment Relations Act 2000

² [2010] NZEMPC 154

card in early December 2011, to a value of almost \$600, with no authorisation from the CEO.

[64] Even if I accepted Mr Uerata-Jennings' claim that he had not become aware of the credit card policy until November 2011 because it was buried under documents on his desk, I cannot ignore the fact that he continued charging personal expenditure to the card after becoming aware of the policy. I do not regard as credible his claims that he did not read the policy and that it should have been brought to his attention in a meeting.

[65] I also reject Mr Uerata-Jennings' assertion that he had authorisation for his expenditure because the CEO signed off monthly statements that included both his personal and business expenses. That assertion rests on his claim that the CEO should have been able to distinguish between his personal and private travel and credit card expenditure on the statements.

[66] While it may be unfortunate Scouts did not scrutinise those statements more closely, it does not logically follow that the CEO must, by virtue of signing the monthly statements, be presumed to have authorised Mr Uerata-Jennings' private expenditure. Scouts expected its employees to demonstrate integrity in their use of travel and credit cards and is not culpable for the failure of an employee to meet that reasonable standard.

[67] I assess Mr Uerata-Jennings' contribution to the situation that gave rise to his personal grievance at 90%.

Determination

[68] Mr Uerata-Jennings has a personal grievance for unjustifiable dismissal. I have assessed his level of contribution to the situation that gave rise to his personal grievance to be 90%. The Scout Association of New Zealand is to pay Mr Uerata-Jennings the sum of \$2,450 being:

- a. Reimbursement of lost wages in the sum of \$1,950 less PAYE, being \$19,500 discounted by 90%; and
- b. \$500 as compensation for the humiliation, loss of dignity and injury to feelings he suffered, being \$5,000 discounted by 90%.

Costs

[69] Costs are reserved.

Trish MacKinnon
Member of the Employment Relations Authority