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DETERMINATION

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2025] NZERA 821
3421944

BETWEEN MARGARET KUOH NYIAN
WONG
Applicant

AND GARDEN HOTEL LIMITED
Respondent

Member of Authority: Philip Cheyne

Representatives: Lucy Pankhurst, counsel for the Applicant
Jonny Sanders and Sally Hitchcock, counsel for the
Respondent

Investigation Meeting: 12 December 2025 in Christchurch

Date of Determination: 17 December 2025

PRELIMINARY DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] Margaret Kuoh Nyian Wong worked as general manager for Garden Hotel Limited for 20 years, but was dismissed without notice on 3 October 2025.

[2] Ms Wong raised a personal grievance on 16 October 2025. She recently commenced action in the Authority in relation to her personal grievances, seeking permanent reinstatement and other remedies.

[3] Garden Hotel Limited (GHL) says that it justifiably dismissed Ms Wong.

[4] Ms Wong also seeks interim reinstatement and lodged her undertaking and affidavit. GHL lodged affidavits in opposition. Ms Wong lodged a further affidavit. At the investigation meeting, both parties presented submissions based on the law regarding interim reinstatement and referring me to the affidavit evidence.

[5] This determination resolves the application for an interim injunction. Findings based on the untested affidavits in support and in opposition, attached documents and the counsels' submissions are solely for that purpose. Final findings must await a substantive investigation meeting.

[6] I will briefly outline the context for the dismissal and the personal grievances before applying the law relating to interim reinstatement.

Non-Publication

[7] Exhibit "A" attached to Ms Wong's affidavit of 10 December 2025 includes private medical information about Mr Lim. I prohibit the publication of the content of Exhibit "A".

Context for the dismissal

[8] Ms Wong was employed in 2005 as general manager. This is no written employment agreement. At some point, GHL issued Ms Wong with a company credit card. In November 2008, Ms Wong was appointed as a director of GHL.

[9] GHL is wholly owned by another company, Evergreen Realty Limited (Evergreen). Ms Wong became a shareholder in that company in August 2006 and her shareholding was increased in June 2008. Ung Tien Lim is the majority shareholder of Evergreen and is also a director.

[10] Mr Lim and Ms Wong are two of the directors of GHL. Ping Lim is Mr Lim's son and is also a director of GHL.

[11] Mr Lim and his wife Mrs Lim came to develop the relationship of godparents-goddaughter with Ms Wong. It is common ground that this was a close and trusting relationship.

[12] In 2024, at Mr Lim's initiative, GHL employed Russell Brocks, initially for day-to-day accounts and payroll tasks. Mr Brocks' role expanded later in 2024.

[13] Mr Brocks noticed GHL credit card payments to a power company, attributed to a code in GHL's Xero accounting system. He thought they were not business-related expenses. He also saw a credit card payment for fuel which he thought could not have been for business use.

[14] Mr Brocks spoke to Mr Lim who asked him to investigate further. Mr Brocks wrote to Ms Wong on 15 July 2025, to meet with her about the power company payments and the petrol purchase. The letter's subject line was "Alleged Serious Misconduct".

[15] Ms Wong replied in an email on 16 July 2025. She said the payments were always part of her remuneration package agreed with Mr Lim. Mr Brocks responded on 18 July 2025. Ms Wong engaged a lawyer and there was a meeting on 11 August 2025.

[16] Following the meeting, on 2 September 2025 Mr Brocks wrote again to Ms Wong, care of her lawyer. There was a formal disciplinary meeting. Ms Wong and GHL were both legally represented.

[17] Following that meeting, Mr Brocks undertook some further inquiries based on Ms Wong's explanations. These were conveyed to Ms Wong in a letter dated 18 September 2025.

[18] Ms Wong responded through her lawyer on 24 September 2025.

[19] On 30 September 2025, Mr Brocks set out his findings and the proposed outcome. His view was that the allegations of serious misconduct were substantiated and he proposed summary termination of Ms Wong's employment. He invited any further response from her.

[20] On 3 October 2025, Ms Wong through her lawyer confirmed to GHL's lawyer that she had nothing further to add. The same day, Mr Brocks wrote to Ms Wong care of her lawyer finalising the outcome of the disciplinary process. Ms Wong's employment was terminated without notice.

The personal grievances

[21] Ms Wong raised claims of unjustified disadvantage and unjustified dismissal.

[22] Ms Wong's shares in Evergreen were removed in April 2025, she says as a result of misrepresentation and misleading and deceptive conduct. Ms Wong says that this was connected with her subsequent dismissal.

[23] Ms Wong says that she got into an argument with Mr Brocks in June 2025 about him undermining her role. The later decision to dismiss her was premediated.

[24] The 15 July letter alleged serious misconduct and set a meeting, but included no details. Later, GHL's lawyer claimed that the meeting was to inquire into concerns, rather than disciplinary. Ms Wong said that her expenditure had been agreed to by Mr Lim from the start and had become an implied term of her employment. But Mr Lim was absent from the disciplinary process.

[25] Ms Wong said that there was no credible or verifiable evidence to support GHL's conclusions. GHL had referred to house rules, but there was no evidence that Ms Wong was aware of them or that compliance with them was a condition of her employment. The expenditure was within the scope of Ms Wong's role and authority as a shareholder and a director. Ms Wong expected that scrutiny would show similar spending by Mr Lim and Ping Lim. She noted that there were no director or shareholder policies.

[26] Ms Wong told Mr Lim that removal of the petrol and power allowances amounted to a pay cut. He then told her to take money from petty cash. After the dismissal, he offered her cash. Ms Wong said that these actions showed that Mr Lim was aware that Ms Wong was being treated unfairly.

[27] Ms Wong has applied to the Authority to investigate and determine these personal grievance claims.

Legal principles

[28] The Authority must apply the law relating to interim injunctions, having regard to the object of the Employment Relations Act 2000.¹ I must consider whether Ms Wong has established that there is a serious question to be tried in relation to her claim of unjustifiable dismissal; where the balance of convenience lies; and what is required

¹ Employment Relations Act 2000 s 127(4).

in the overall interests of justice. I must be satisfied that there is serious question with respect to both the unjustified dismissal claim and the permanent reinstatement claim.

[29] A serious question is one that is not vexatious or frivolous. It is a relatively low threshold.

Serious question - Unjustified dismissal

[30] There is a serious question to be tried regarding the claim that GHL pre-determined its decision to dismiss Ms Wong.

[31] Ms Wong says that her shares in Evergreen were removed in April 2025, as a result of misrepresentation and misleading conduct. That claim is now the subject of proceedings before the High Court. I make no comment about the merits of the application. However, if the claim is proven, it could add to Ms Wong's claim about pre-determination.

[32] Mr Brocks sought to meet with Ms Wong to discuss "Alleged Serious Misconduct", but provided no details. The proposed meeting did not occur and details were provided later, but the very serious allegation unsupported by details raises a tenable argument that Mr Brocks had already formed a view, especially given his evidence is that he had already been told by Mr Lim that Ms Wong's credit card was only for work expenses, not personal fuel or electricity payments.

[33] In addition, GHL might reasonably have had a concern about whether GHL had authorised Ms Wong's long-standing use of the credit card for non-business expenses (her power account and fuel), although that concern was not articulated in the 15 July 2025 letter. But by 2 September 2025, GHL's allegation was Ms Wong's actions breached house rules regarding zero tolerance for theft and misappropriation of money. That potentially supports the claim of pre-determination.

[34] Arguably, GHL should have started from the position that Ms Wong was inherently unlikely to have acted dishonestly, given the length of her employment and the godparent relationship, but it appears not to have.²

[35] Ms Wong says that GHL should have used an independent investigator. That too is arguable. Mr Lim referred to Ms Wong's explanation that her credit card use was

² *Glengarry Hancocks Limited v Madden* [1998] 3 ERNZ 361 at 372.

agreed with him as an “outright lie”. It is arguable that Mr Brocks lacked sufficient independence to assess whether or not Ms Wong’s explanation was accepted by GHL, because he was answerable to Mr Lim.

[36] Some other procedural issues are raised, but they add little strength to the arguable case. If only some process defects were involved that were minor and did not cause an unfairness to Ms Wong, GHL would be entitled to rely on s 103A(4) of the Employment Relations Act 2000. For example, GHL referred to house rules but Ms Wong did not have an employment agreement expressing the binding effect of such rules. Nonetheless, an employer should be able to trust an employee only to use its credit card as authorised.

[37] Overall, although arguable, Ms Wong’s personal grievance claim of unjustified dismissal at this stage cannot be regarded as strong. Her difficulty is that there was a process on paper by which GHL through Mr Brocks raised issues, explored her explanations and then formulated reasons for its decision to dismiss her.

Serious question – permanent reinstatement

[38] Reinstatement, when sought, must be ordered wherever practicable and reasonable, if it is determined that the employee has a personal grievance.³

[39] Assuming a grievance is upheld, both the practicality and reasonableness of permanent reinstatement will largely turn on whether or not Mr Lim approved Ms Wong’s use of the credit card in 2005 and in 2014. That in turn will depend on resolving the evidential conflict between Ms Wong and Mr Lim. At this stage, neither person’s evidence appears more likely to prevail. Given that, Ms Wong’s claim for permanent reinstatement is arguable, but not strongly so.

Balance of convenience

[40] Ms Wong has known only her employment at GHL since her education in New Zealand. The dismissal has affected her confidence and she has been humiliated by it. Her familial relationship with Mr Lim has been affected as well as her friendship connections to others who work at GHL.

³ Employment Relations Act 2000 s 125.

[41] While I accept that Ms Wong will suffer harm as described if not reinstated pending final determination of her claims, those effects are largely capable of remedy by way of compensation, reimbursement and permanent reinstatement if Ms Wong has a personal grievance. Indeed, at an earlier point of this problem, Ms Wong in an open offer to GHL said she would resolve matters for compensation.

[42] To the extent that the Authority can resolve the breakdown of the familial relationship, it would require final findings and appropriate orders, rather than interim reinstatement based on untested affidavit evidence.

[43] Balanced against those factors is the potential harm to GHL of being required to interim reinstate Ms Wong when she might have improperly used the company credit card.

[44] I find that the balance of convenience favours GHL.

Overall justice

[45] Ms Wong has an arguable case for a personal grievance and for permanent reinstatement, but not strongly so. The balance of convenience favours GHL. This points away from interim reinstatement.

[46] There is no reason to depart from that conclusion.

Outcome

[47] The application for interim reinstatement is declined. Costs are reserved.

[48] The Authority will arrange a case management conference to discuss arrangements for investigating and determining Ms Wong's substantive case.

Philip Cheyne
Member of the Employment Relations Authority