

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2014] NZERA Auckland 6
5395990

BETWEEN MICHAEL KINLIM YAN
Applicant

AND COMMISSIONER OF
INLAND REVENUE
Respondent

Member of Authority: R A Monaghan

Representatives: M Scott, counsel for applicant
 S Hornsby-Geluk, counsel for respondent

Investigation meeting: 16, 17 and 18 September 2013

Submissions received: 27 September and 4 October 2013 from applicant
 2 October 2013 from respondent

Determination: 10 January 2014

DETERMINATION OF THE AUTHORITY

A. The Commissioner of Inland Revenue's action in dismissing Michael Kinlim Yan was justified.

Employment relationship problem

[1] The Commissioner of Inland Revenue employed Michael Kinlim Yan as a solicitor in the Department of Inland Revenue (IRD). In December 2011 Mr Yan was dismissed on the ground of poor performance. He says the dismissal was unjustified.

[2] Mr Yan's role was to offer tax technical and legal advice to IRD investigations and debt collection staff, as a member of a team known as the legal technical services team (LTS). After an annual performance review in 2010 Mr Yan's team leader, Brian Haycock, wrote to Mr Yan expressing concerns about aspects of his performance. When no improvement was observed the manager of the LTS team at

the Takapuna office where Mr Yan worked, Michael Oomen, initiated a performance improvement plan (PIP).

[3] The plan was detailed, and was issued in writing. It identified 11 particular performance issues which were to be addressed. They provided the basis for the series of PIPs which followed. I summarise the performance issues as concerning: failures to meet electronic recording and reporting requirements; the quality of Mr Yan's communication and interaction with his colleagues and with the IRD's internal customers; an inability to follow instructions; the quality of his advice; and the unsatisfactory organisation of his work. The issues were assessed with reference to work on specific files during the relevant PIP period.

[4] The PIP process included:

- consulting with Mr Yan about the content of the PIP;
- providing Mr Yan at the commencement of a specified PIP period with a list of the performance issues to be addressed during the period, coupled with the IRD's expectations;
- having the team leader,
 - meet with Mr Yan at regular intervals during the PIP period (referred to as subperiods) to review progress and receive Mr Yan's feedback; and
 - assign preliminary ratings at the end of each subperiod, addressing whether relevant expectations were 'Met', 'Not Met', or 'Not Tested';
- having the manager,
 - meet with Mr Yan at the end of the period to discuss the period as a whole;
 - assign a final rating addressing whether each of the relevant expectations was 'Met', 'Not Met' or 'Not Tested';
 - advise Mr Yan of the prospect of disciplinary action when that prospect arose as a result of the ratings;
 - offer Mr Yan an opportunity to comment on that prospect;
 - decide any disciplinary outcome after hearing from Mr Yan; and
 - advise Mr Yan of the outcome, giving reasons.

[5] The parties engaged in three PIP periods, being:

- 17 November 2010 – 28 February 2011 (the first PIP period);
- 4 April 2011 – 30 June 2011 (the second PIP period); and
- 29 August – 28 October 2011 (the third PIP period).

[6] Disciplinary warnings were issued at the end of the first and second PIP periods. The warnings identified the expectations rated ‘Not Met’¹ and concluded that Mr Yan’s overall performance was not at a satisfactory level. No personal grievance has been raised in respect of the warnings and I do not address the justification for them. The evidence about the warnings and their background is relevant to whether the IRD met its obligations when it made the decision to dismiss.

[7] The dismissal was imposed after completion of the third PIP period. Several expectations were rated ‘Not Met’ at the end of that period, and the IRD considered Mr Yan’s performance remained below the required standard.

[8] Jonathan Ridling – who was the acting manager at LTS Takapuna during the second and third PIP periods – discussed the outcome of the third PIP period in a meeting with Mr Yan on 29 November 2011. By emailed message to Mr Yan dated 30 November Mr Ridling sought any further feedback, and advised of his intention to hold two more meetings in December 2011. The first, on 8 December, would address a preliminary decision on a disciplinary outcome. The second, on 14 December, would address the final decision.

[9] Mr Ridling found that 6 expectations were ‘Not Met’ during the third PIP period. Three were not fully tested. Two were not assessed during the period as they had been ‘Met’. Mr Ridling advised Mr Yan of his conclusions, with explanations, in a lengthy and detailed letter dated 8 December 2011. The letter also set out Mr Ridling’s preliminary decision to dismiss, giving reasons. These encompassed the unsatisfactory outcome of the third PIP period, as well as Mr Ridling’s assessment of Mr Yan’s performance based on the PIP process overall.

[10] The assessment was that Mr Yan did not meet the standard expected of a solicitor at his level. The minimum standard was detailed in the written job expectations of a solicitor in the LTS team. It included: using effective relationship

¹ A substantial majority of the expectations were ‘Not Met’ in both periods.

management and communications skills; demonstrating technical knowledge and experience and engaging appropriately with colleagues and others; having a high degree of initiative, awareness and self-awareness; and assessing and analysing information, and supporting conclusions, with soundly reasoned arguments. The performance issues assessed during the PIP process amounted to specific failures to meet the standard.

[11] Mr Ridling also concluded Mr Yan: demonstrated unwillingness or inability to meet the minimum standard required of his written work; had shown no commitment to improving his work skills, and had resisted advice. Mr Ridling considered alternatives to dismissal but the continued issues with Mr Yan's performance, coupled with his unwillingness to change, meant he concluded redeployment was not appropriate.

[12] The 8 December letter was discussed at the meeting of the same date. There followed a series of lengthy emailed exchanges between Messrs Ridling and Yan. In those exchanges Mr Yan raised several concerns about the PIP and disciplinary process, and expressed his disagreement with Mr Ridling's conclusions. Mr Ridling replied, responding to the concerns.

[13] The exchanges included a possible basis for a settlement, in respect of which privilege has been waived. The discussion incorporated whether the termination of Mr Yan's employment could be treated as a resignation.

[14] The meeting to discuss the final decision went ahead on 19 December. Mr Ridling regarded as still 'on the table' a written settlement document, although if the document was not agreed he would confirm the preliminary decision to dismiss. He handed Mr Yan a letter of dismissal dated 19 December, which he said he would rescind if the settlement was agreed.

[15] A third meeting went ahead on 21 December. Mr Yan advised that he did not agree to the settlement, and the dismissal on notice was confirmed.

Issues

[16] The test of justification for the dismissal is whether deciding to dismiss, and how the decision was made, was what a fair and reasonable employer could have done

in the circumstances at the time.² An employer called on to justify a dismissal must show that it has: sufficiently investigated the allegations against the employee before taking action; advised the employee of its concerns; offered the employee an opportunity to be heard; and taken the employee's responses into account before making its decision.³ Other factors may also be taken into account.⁴ However the Authority cannot find a dismissal unjustified solely because of defects in process if the defects were minor and did not result in the employee being treated unfairly.⁵

[17] When the dismissal is for unsatisfactory work performance, an employer's obligations include: disclosing to the employee specific reasons for the dissatisfaction; identifying a reasonably specific and measurable improvement; allowing a reasonable period of time for the employee to demonstrate such improvement; and at the end of that time giving dispassionate consideration to whether enough progress has been made to avert dismissal. The last of these includes consideration of remedial steps including redeployment.⁶

[18] Mr Yan's challenge to the justification for his dismissal was extensive and detailed. I have attempted to address the matters he raised with reference to the above obligations.

[19] The issues are:

- (a) did the IRD conclude on reasonable grounds that Mr Yan's performance was not satisfactory;
- (b) did the IRD act as a fair and reasonable employer in that it,
 - (i) disclosed to Mr Yan the specific reasons for its dissatisfaction with his performance,
 - (ii) identified a specific and measurable improvement,
 - (iii) allowed a reasonable time to demonstrate the improvement,
 - (iv) at the end of that time, assessed objectively whether measurable targets were met;
 - (v) offered Mr Yan an opportunity to be heard on its preliminary conclusions before deciding to dismiss;

² Employment Relations Act 2000 s 103A(2)

³ s 103A (3)

⁴ s 103A(4)

⁵ s 103A(5)

⁶ *Trotter v Telecom Corporation of New Zealand Ltd* [1993] 2 ERNZ 659

- (vi) took Mr Yan's responses into account before deciding to dismiss;
and
 - (vii) considered alternatives to dismissal.
- (c) is there any other relevant factor;
 - (d) were there minor defects which did not amount to unfair treatment;
 - (e) was dismissal the action a fair and reasonable employer could take in the circumstances at the time; and
 - (f) if not, what is the remedy.

Reasonableness of grounds for concluding performance was not satisfactory

[20] It is not open to Mr Yan to challenge the merits of the conclusions about his performance during the first two PIP periods, because he did not raise a personal grievance in respect of the resulting warnings.

[21] Thus it is too late to claim that the conclusions reached about his performance at the end of the first two PIP periods were wrong. Rather the approach is to identify: what aspects of his performance were identified as requiring improvement under the warnings and in particular the warning issued at the end of the second PIP period; were those aspects tested during the third PIP period; were those aspects found wanting at the end of the third PIP period; and were there reasonable grounds for concluding that the performance was unsatisfactory.

[22] The IRD was systematic and consistent in identifying 11 performance issues at the outset, working through each of them during each of the PIP periods, and finding most of its requirements still 'Not Met' overall by the commencement of the third PIP period. Mr Ridling then concluded at the end of that period that Mr Yan had not met expectations through his⁷:

- unsatisfactory recording of information in the IRD's eCase electronic case management system;
- failing to communicate with the team leader in response to a request for comments, failing to inform the team leader of progress on a

⁷ I have further summarised the six standards 'Not Met'

particular case within the required time, and failing to follow up with an investigator on the file – all despite instructions to do so;

- not meeting the ‘quality of advice’ standard in a number of particular files;
- unsatisfactory organisation of work, encompassing the above failure to communicate with the team leader and a failure to refer the file in question to the designated peer reviewer within the required time.

[23] Findings of this kind had also been made in respect of particular actions during the earlier PIP periods.

[24] Few substantive errors of fact were pointed to in the challenge to Mr Ridling’s conclusions about what Mr Yan had done or not done. Some alleged errors were not errors at all, rather they were based on misunderstandings or misconceptions of Mr Yan’s. Of the errors identified, some were corrected at the time and some were trivial or did not affect the outcome.

[25] Mr Yan’s challenge to the justification for his dismissal is concerned in essence with how the employer reached its conclusions, and is addressed in more detail in the next section of this determination. What remains in the present context is that, while for the most part Mr Yan had acted or failed to act as Mr Ridling found, Mr Yan disputed that the acts and omissions (if any) should be viewed as seriously as Mr Ridling viewed them. He either denied that the acts and omissions amounted to poor performance at all, or said any failings were minor.

[26] I accept that some of the individual examples of unsatisfactory recording of information, failures in communication and unsatisfactory organisation of work were minor in themselves. However such examples occurred throughout the PIP process, and were not curbed as they should have been if Mr Yan was to demonstrate an improvement in his performance. The cumulative effect was sufficiently corrosive of the employment relationship to justify according them a higher degree of seriousness than they might attract on their own.

[27] Mr Yan disputed the finding that the quality of his advice did not meet the required standard. The IRD had a general discretion to assess whether Mr Yan’s

advice met the standard that could reasonably be expected of a specialist solicitor with his experience,⁸ and it proceeded accordingly.

[28] Again, concerns about the quality of Mr Yan's work were raised with him throughout the PIP process, with reference to particular files being worked on at relevant times. Rather than a single specific weakness being identified consistently, various flaws arose at various times in various items of work. For example there were occasions where a conclusion or advice was considered: wrong; not wrong but poorly supported or argued; or lacking because issues that should have been covered - even if they did not affect the outcome - were not covered.

[29] Mr Yan's work was peer reviewed, and the IRD went as far as involving different reviewers in order to avoid any suggestion that the reviews were affected by any personal antipathy towards Mr Yan. While the peer reviews were not solely negative they identified flaws of the kind noted above, and to a degree that was significant. Flaws continued to arise in respect of files worked on in the third PIP period. I find Mr Ridling was entitled to reach the conclusion he did about the quality of Mr Yan's work.

[30] Mr Yan has also said, in effect, that the performance concerns were looked at in isolation rather than in the proper context of his performance generally, so that positive aspects of his performance were not taken into account.

[31] I do not accept this approach is apt when the context is one of performance management and related disciplinary action. Inevitably if valid concerns about performance have arisen, the parties' focus must be on addressing and correcting the aspects in question. If these cannot be corrected then the employer is entitled to conclude that overall performance remains unsatisfactory even if other aspects are satisfactory. That is the approach Mr Ridling took. He did not disregard the satisfactory aspects of Mr Yan's performance, or fail to take account of positive feedback. Rather he based his decision on the fact that there was no or inadequate correction or improvement in areas where this was required.

⁸ *Bagchi v Commissioner of Inland Revenue* AC 40/08, 26 September 2008.

[32] Finally, Mr Yan said many of the items of concern were minor or trivial. That may be true of some individual items, but not of the overall picture of which the items were a part.

[33] I find there were reasonable grounds for concluding that Mr Yan's performance was not satisfactory.

Did the IRD act as a fair and reasonable employer

1. Disclosure of reasons for dissatisfaction

[34] The IRD provided Mr Yan with reasons for its dissatisfaction. These were discussed in detail at the commencement of the PIP process, were raised again at the progress meetings during the PIP periods, and were discussed during the exchanges in November and December 2011.

2. Identification of specific and measurable improvement

[35] The areas where improvement was required were discussed exhaustively throughout the PIP process, and were recorded in the PIP documents. Not only that, information of this kind was not new to Mr Yan in that the same matters had been raised and discussed in the less formal context of the performance reviews which preceded the commencement of the PIP process.

[36] Mr Yan alleged on a number of occasions at the time and in the Authority that he was confused or uncertain about what was required, giving details. Rather than addressing each of them in this determination, I say by way of summary that the employer gave frequent and detailed explanations of what it required. Mr Yan's response was consistently to find fault with or debate the explanations. He did so to such an extent that I consider it a strength in the approach both of Messrs Oomen and Ridling that they did not themselves become confused about their expectations. Mr Yan was not necessarily wrong or misguided every time, but the overall conclusion I reach from the evidence is that he was refusing or failing to grasp requirements that in many respects were fundamental to the role of any senior solicitor. This was not the fault of his employer.

3. Reasonable time to demonstrate improvement

[37] Mr Yan had a little under a year overall to improve his performance, with the critical third PIP period lasting for two months. This was a reasonable time in which to demonstrate an improvement.

4. Assessment at the end of the PIP period of whether measurable targets were met

[38] A comprehensive and objective assessment of the required targets was undertaken at the end of each PIP period.

5. Opportunity to be heard on preliminary conclusions

[39] The preliminary conclusions directly relevant to the decision to dismiss were those reached at the end of the third PIP period. Mr Yan was heard on those conclusions, as evidenced by the meetings and exchanges in late November and early December 2011.

[40] Mr Yan complained that the final decision was hasty. Mr Ridling did attempt to arrange meetings with a view to completing the matter before the Christmas break, but in all the circumstances I do not accept that Mr Yan lost any opportunity to be heard as a result or that the decision was hasty.

[41] Mr Yan complained that conclusions were put to him as a *fait accompli*, and he had no opportunity for rebuttal. The complaint centred substantially on whether he had an opportunity to rebut the opinions of peer reviewers. He was aware of these opinions at relevant times, and at relevant times he had the opportunity to express his disagreement with them. The IRD was not obliged to go further and debate the correctness of the reviewer's opinion, and nor was it obliged to offer Mr Yan an opportunity for input into the reviewers' opinions before they were reached. The IRD was obliged only to take the respective views into account when forming its own.

6. Taking responses into account

[42] Mr Yan's responses were taken into account.

7. Alternatives to dismissal

[43] Redeployment was considered. Mr Ridling concluded on reasonable grounds that the continued issues with Mr Yan's performance, and Mr Yan's apparent unwillingness to change or acknowledge shortcomings, meant redeployment would not be appropriate.

8. Conclusion

[44] I find the IRD met the requirements in s 103A(2) and (3) of the Employment Relations Act, as well as its obligations under *Trotter*⁹.

Are there other relevant factors

[45] Mr Yan raised several factors which again I consider trivial, without merit, or based on misconceptions. Factors with the potential to be of substance were:

- (i) breach of policy;
- (ii) embarking on PIP process on improper grounds;
- (iii) unfair allocation of files;
- (iv) unfairly being held to different standards from other employees (which Mr Yan referred to as disparity of treatment);
- (v) wrongful attempt to procure resignation by financial inducement; and
- (vi) length of service not taken into account.

1. Breach of policy

[46] The IRD had a 'Performance Policy'. The policy document produced to the Authority recorded a publication date of 19 April 2010, and that it was located on the IRD's intranet with availability to 'all'. The document is relatively brief, being a page and a half long. It provided that performance would be deemed 'unsatisfactory' *when a staff member has not been able to achieve the expectations, standards or tasks set for their job*. It contained statements about the purpose of the procedure, and summarised the process to be followed when an employee has failed to show

⁹ See fn 6

sufficient improvement under a PIP. I do not accept the policy identified in the document was breached.

[47] Much was made on behalf of Mr Yan of a more detailed document dated November 2008 and entitled 'Managing Poor Performance'. The IRD says the document was a guideline on the management of poor performance which was issued to managers for their assistance. There is nothing inappropriate in this.

[48] Mr Yan identified what he considered to be a different definition of 'poor performance' from the one in the policy, and said his performance was not poor under the definition in the guideline. He believes further that information which would have allowed him to argue this was wrongly withheld.

[49] There is no merit in this argument. The guidelines attempted to distinguish 'performance' issues from 'misconduct' issues, and gave an indication of what amounted to a 'performance' issue. The guidelines did not purport to provide a full definition of 'poor performance' for use in all circumstances. In any event, as already indicated, the employer remains able to determine whether or not performance is satisfactory and disciplinary action will be justified if it meets tests of the kind discussed in the rest of this determination.

2. Improper grounds for embarking on PIP process

[50] Mr Yan alleged the PIP process was embarked on improperly and as a result of Mr Oomen's adverse view of him. He also alleged that the process was embarked on because he had recently declined an offer of secondment to work on a particular project.

[51] These allegations were based on a construction of the evidence which I do not accept. Mr Oomen acknowledged that Mr Yan was a difficult person to manage, but I find Mr Oomen acted professionally and had no improper motive in commencing the PIP process. Not only that, the secondment offer was genuine and was an attempt to provide meaningful work to Mr Yan in circumstances where it was otherwise becoming increasingly difficult to do so. Mr Yan was scornful of the offer, but his scorn was unwarranted.

3. Unfair allocation of files

[52] From time to time during the PIP process, some of the 11 standards were recorded as 'not tested' because work done during the subperiod concerned did not involve the relevant activity. Mr Yan said he should have been given work that would enable him to demonstrate his competence in those activities. However a 'not tested' rating was neutral for the purposes of the overall assessment. It did not count against Mr Yan. I do not accept that any of the 'not tested' ratings meant Mr Yan was prevented from demonstrating his competence.

[53] Secondly, Mr Ridling explained to Mr Yan in the 8 December letter that care had been taken when allocating files to him. Mr Ridling was referring to the poor relationship between Mr Yan and individuals whose files might otherwise have been allocated to him, and he did not wish to risk any tainting of the assessment of Mr Yan's work on those files. It was also Mr Ridling's evidence that, with that in mind, he still sought to allocate files that would allow Mr Yan to demonstrate he could meet the IRD's expectations. I found that evidence convincing.

[54] If Mr Yan believes an entirely unrestricted allocation of files - or a differently-selected allocation - would have allowed him to demonstrate that his performance was satisfactory, then the evidence overall suggests that belief is not well-founded. Similarly I do not accept there was such a miserly flow of files to Mr Yan that he did not have a fair opportunity to demonstrate his competence. I find the IRD's approach to allocating files to Mr Yan was fair.

4. Application of differing standards

[55] Mr Yan says different standards were applied to him in that:

- less tolerance was shown of errors in his work than was shown to the errors of colleagues;
- the standards applied in the Takapuna office were not consistent with those applied nationally; and

- he was treated differently from the more senior officials involved in the ‘winebox’ affair¹⁰.

[56] If less tolerance was shown of errors in Mr Yan’s work than of errors in the work of his colleagues, this was not unfair. Mr Yan’s argument effectively treats each individual error as a discrete matter isolated from any other, and says other employees guilty of the same error (if there were any) did not have their performance called into question. For reasons I have discussed earlier in this determination I do not accept this kind of submission. In that it addresses the position of other employees it does not take into account that Mr Yan’s shortcomings had accumulated to the extent that his performance was under review, while other employees were not in that position.

[57] I am not persuaded there was an unfair application of standards in the Takapuna office when compared with other offices. Mr Yan’s argument relied in particular on allegations of differing requirements in the use of eCase between offices. Even if there were some differences between offices there was no evidence that the differences were extensive or significant, but more importantly there was abundant evidence that requirements in the Takapuna office were raised with Mr Yan time and again both before and during the PIP process.

[58] Thirdly I do not accept anything in the ‘winebox’ affair is comparable with the circumstances here, or means Mr Yan’s dismissal was unjustified. Further if the conduct of any employee concerned in the ‘winebox’ affair could have - but did not - led to disciplinary action, the IRD is not forever bound by this.¹¹

5. Wrongful attempt to procure resignation

[59] The allegation of a wrongful attempt to procure Mr Yan’s resignation concerns the failed attempt at settlement at the time of the dismissal.

[60] It is relatively common, and not in principle wrongful, for an employer and employee to negotiate the possibility of an employee resigning rather than being

¹⁰ An affair notorious in New Zealand in the mid-1990s, involving allegations of large scale tax evasion coupled with allegations of fraud and incompetence on the part of the IRD. It attracted extensive litigation, with the judgment of the High Court in *Peters v Davison & Ors* [1999] 3 NZLR 744; (1999) 19 NZTC 15,391 being relied on in the Authority.

¹¹ *Samu v Air New Zealand Limited* [1995] ERNZ 636.

dismissed. I refer to genuine attempts to negotiate an agreed exit, rather than to the offer of a bare choice between resignation and dismissal which may lead to a finding of constructive dismissal. The line may not always be easy to draw, but I have no hesitation in finding here that the circumstances amounted to the former rather than the latter.

[61] The prospect of Mr Yan's resignation was raised by his support person during the post-8 December discussions. It should have been treated as part of a genuine attempt to negotiate an agreed exit, and viewed as an opportunity for Mr Yan to depart with his dignity and reputation intact. Instead Mr Yan raised a question based on a provision in the employment agreement concerning resignation leave. When Mr Ridling responded with an indication of how that provision would be addressed, Mr Yan accused the IRD of acting wrongly and in a manner amounting to a constructive dismissal. His approach was misconceived.

[62] I find the IRD's action was not wrongful.

6. Length of service

[63] Mr Yan had 26 years' service with the IRD, and Mr Ridling was obliged to take that into account.

[64] While the factor required consideration, it was more than counterbalanced by a very unsatisfactory work history.

[65] Mr Ridling's focus was on whether Mr Yan's performance had improved to a satisfactory level over the course of the three PIP periods, and in particular by the end of the third period, but any consideration of Mr Yan's wider history would reinforce the decision to dismiss rather than vitiating it. Mr Yan had received disciplinary warnings in 1998, 2000, 2005. He had also received written expressions of concern about his performance, and there had been informal attempts to address performance matters, even before Mr Haycock's attempts to raise similar matters again in the annual performance review of 2010.

[66] Mr Yan's length of service does not count against the justification for the dismissal.

Was dismissal an action a fair and reasonable employer could take

[67] I have found Mr Ridling concluded on reasonable grounds that Mr Yan's performance was not satisfactory, and acted as a fair and reasonable employer in reaching that conclusion. I have not found any factors vitiating the justification for the dismissal.

[68] I now return to Mr Ridling's conclusions about Mr Yan's unwillingness to change. These were further discussed in the evidence and submissions for the IRD with reference to Mr Yan's lack of insight into the problems with his conduct, and the need for him to accept the advice he was being given in an attempt to correct the problems. Mr Yan's responses to Mr Ridling at the time, and his stance in the Authority, demonstrated an extremely limited willingness to accept any shortcomings on his part, showed undue resistance to his employer's attempts to help him, and attacked his employer's actions and motives on frequently-misconceived grounds rather than listening and responding constructively to it. Mr Ridling's conclusions on that matter were also justified.

[69] For these reasons I find dismissal was an action a fair and reasonable employer could take in the circumstances at the time. Mr Yan's dismissal was justified.

Costs

[70] Costs are reserved.

[71] The parties are invited to reach agreement on the matter. If they are unable to do so any party seeking costs shall have 28 days from the date of this determination in which to file and serve memoranda on the matter. The other party shall have a further 14 days in which to file and serve a reply.

R A Monaghan

Member of the Employment Relations Authority