



# NOT INVESTIGATING IS NOT AN OPTION

When a board of trustees decided to consider a complaint against an assistant principal along with a separate complaint against a principal, the case dragged on. Paul Robertson says the decision by the Employment Relations Authority highlights the need for complaints to be dealt with as they arise.

**THE FAILURE BY A BOARD OF** trustees to adequately investigate a complaint has led to a successful personal grievance by its former assistant principal, Ms Johnston. The decision of the Employment Relations Authority highlights the need to deal with complaints as they arise.

In 2011, Ms Atchison, a colleague and associate of Ms Johnston, complained that Ms Johnston was unreliable, unprofessional and dishonest.

At the same time, the board of trustees was considering a complaint against the principal. The board decided that the complaints against Ms Johnston and the principal should be considered together.

## ON HOLD

The investigation of the complaints against the principal took some time so, at the request of the board, the complaints against the assistant principal were put on hold.

Ms Atchison became concerned by the delay and

wrote a strongly worded letter to the board (setting out more concerns) in May 2011. By this time the principal had resigned.

The new principal was instructed to investigate the complaints against Ms Johnston and organised a meeting to hear Ms Johnston's response to the allegations. Ms Johnston denied all wrongdoing.

## DYSFUNCTIONAL RELATIONSHIP

The principal/board decided that the best way forward was to work on the dysfunctional relationship between Ms Atchison and Ms Johnston.

Professional development was arranged for them both. That did not assist, so the principal arranged a mediation with the Department of Labour.

In the meantime, Ms Johnston had raised a personal grievance because of the unresolved complaint and left the school on sick leave. Her doctor reported that the reason was 'stress [related] to [her] employment'.

A mediation in December 2011 led to an agreement to implement a rehabilitation plan for Ms Johnston to ease her back into the school in 2012.

The principal became concerned that the stress issues identified in earlier medical certificates had not been resolved, and because the relationship with Ms Atchison remained fractious.

Before Ms Johnston could provide medical evidence to allow her return to work, the board decided to dismiss her.

## AUTHORITY DECISION

Ms Johnston lodged several personal grievances that were considered by the Authority. In its decision of July 2014 the Authority:

- Upheld her grievance on the grounds that the board had failed to investigate the complaints by Ms Atchison promptly. "Not advising Ms Johnston of the complaint or otherwise acting on it was a failure to communicate which

allowed a bad situation to fester and deteriorate."

- Upheld her complaint that the dismissal was unjustified. The main reason was that the board had been asking for an update on her medical condition, but then dismissed her shortly before that update was provided.

Ms Johnston was awarded compensation including salary and payment for hurt, humiliation and distress.

She also claimed reimbursement for a period of unpaid sick leave. That claim failed, mainly because the Authority did not have evidence to link the need to take leave and the stress created by workplace issues.

**Johnston v Board of Trustees of Southern Regional Health School [2014] NZERA Christchurch 112**



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