



DISMISSED TOO SOON

A relationship breakdown doesn't always make dismissal inevitable. When a first-time principal was dismissed for alleged serious misconduct, she offered to work with the board of trustees to resolve the situation. They did not respond. Paul Robertson explains why the Employment Relations Authority ordered interim reinstatement.

A FALLING OUT BETWEEN A

board of trustees and a principal normally leads to the principal resigning or being dismissed.

However, a recent decision of the Employment Relations Authority reminds boards of the need to support their principal, and that a relationship breakdown doesn't always make dismissal inevitable.

The dispute concerned a Wellington kura. The principal challenged the decision of the board of trustees to dismiss her for alleged serious misconduct.

She sought reinstatement pending the hearing of her substantive claim.

BOARD OF TRUSTEE REQUIREMENTS

The Authority reviewed the principal's collective employment agreement noting that the board was required to:

- Undertake a yearly performance review;
- Offer the principal professional training;

- Consider involving an independent mediator/facilitator if there was a relationship issue; and
- Provide assistance and personal guidance if there were competency issues.

The Authority reviewed the background to the dispute which followed complaints against the principal about a range of issues.

These included leaving a whanau hui early, bringing family members to the hui contrary to the requirements of the board chair, being absent without board approval on a day that an earthquake struck the school, lack of planning for some classes, and appointing a staff member without consulting the board.

POSITIVE PROPOSALS

The principal responded to every complaint, made positive proposals to get over the problems, and offered to work with the board to resolve the differences. The board did not

respond and instead accepted the complaints as evidence of serious misconduct justifying dismissal.

The Authority found that none of the complaints could be characterised as serious misconduct.

At best, it said, they were performance concerns that ought to be resolved by the board of trustees putting in place appropriate assistance and guidance.

NO REVIEW

Challenging performance was difficult for the board as no performance review had taken place and the principal complained that she had not received appropriate training to support her as a first-time principal.

The Authority reminded the board of the requirement to consider mediation if there is a problem in the relationship between the board and the principal.

It stated: "...[T]his board seems to have catapulted immediately into summary dismissal, again without properly attempting to resolve issues, particularly with outside assistance. Such assistance is readily available within the education sector, of which this kura is part. The taking of any of these steps need not jeopardise the principles and processes of Te Aho Matua."

Because of these considerations, and concerns over the disciplinary process adopted by the board of trustees, the Authority ordered the interim reinstatement of the principal.

The parties were encouraged to seek assistance to resolve the breakdown in their relationship.



PAUL ROBERTSON is a partner at Heaney & Partners in Auckland. Visit www.heaneypartners.com for more.

HEANEY & PARTNERS
BARRISTERS AND SOLICITORS

(09) 3030 100
Fax (09) 3677 009
Level 26, PwC Tower, 188 Quay Street, Auckland

School Trustee Liability & Employment Specialists
We are a service organisation dedicated to achieving results for all of our clients.

Contact: Paul Robertson DDI (09) 367 7004 PO BOX 105391 DX CP18503 www.heaneypartners.com