

Dispatch

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dundas street employment lawyers



Compensation awards are on the rise.

A former employee has been awarded more than \$100,000 in compensation for humiliation, loss of dignity and injury to feelings after successfully arguing that he had been bullied, unjustifiably suspended and constructively dismissed.

The Employment Relations Authority's decision in *Parker v Magnum Hire Limited* continues a developing trend of increasingly substantial awards in the employment jurisdiction in the wake of the Employment Court revising its compensation bands upwards in *GF v Customs*.

In December last year, for instance, the Employment Court awarded over \$1.8 million to two school counsellors (*Cronin-Lampe v The Board of Trustees of Melville High School*.) Of that amount, \$123,500 was awarded to one claimant and \$92,625 to the other, for 'non-economic' loss (the contractual equivalent of compensation for hurt and humiliation). Another recent Employment Relations Authority decision, *Spotswood v Concrete Structures (NZ) Ltd*, also made a point of noting that the \$14,000 compensatory sum it had awarded was "a very modest sum".

While the facts in all of these decisions are at the more extreme end of the spectrum in various ways, employers need to be aware of the rapidly changing direction of travel after many years of relatively low monetary awards from the Authority and Employment Court. In particular, negotiated settlements may become more expensive as more employees or former employees consider it worthwhile to take their chances through litigation.

Parker v Magnum Hire Limited – what happened?

Mr Parker, a General Manager at a heavy machinery equipment hire company, claimed to have been bullied by a director of the company (Mr Field) over a period of nine years. He told the Authority that he had experienced a range of conduct in that time, including verbal abuse, excessive and unprovoked personal criticism, public humiliation and denigration. He also claimed that Mr Field had engaged in manipulative and psychologically abusive behaviours towards him, such as denial, obfuscation, and false flattery.

The situation came to a head in 2021. Mr Parker contacted Mr Field a few days after having surgery to update him on his recovery. During that conversation, Mr Field attacked Mr Parker, calling him useless and telling him that it

was his fault the company was losing money. Mr Field said that he had employed a CEO to take Mr Parker's place, and that Mr Parker's employment was now at risk. The call was so traumatic that Mr Parker had a panic attack, which ruptured the incision from his recent surgery.

Following the call, Mr Parker's doctor recommended he work from home while he recovered. Mr Field refused to allow him to do so, which was later found to be an unlawful suspension. Lawyers became involved in an unsuccessful attempt to resolve the situation, and personal grievance claims were raised. Ultimately, Mr Parker resigned, claiming that he had been constructively dismissed.

Having succeeded in his claims, and in addition to lost wages (\$32,462.68) and other amounts relating to unpaid bonus and holiday pay entitlements, the Authority awarded Mr Parker:

\$50,000 for unjustified disadvantage (bullying);
\$50,000 for unjustified dismissal; and
\$5,000 for unjustified disadvantage (suspension).

Penalties (\$1000 to Mr Parker and \$3000 to the Crown) were also awarded for failures associated with wage, time and holiday records.

The team at Dundas Street