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CASUAL EMPLOYEES STILL HAVE RIGHTS, WARNS ERA

A recent case seen by the Employment Relations Authority is debunking a common Kiwi misconception that casual workers aren't subject to the same rights as standard employees. Member of the authority Rachel Larmer was presiding over a case in which Waikato employer Timbertank had dismissed project manager Gary Maiden after 17 years on the job. "Timbertank's administration no longer wants to use you, rough and ready, tank cleans not being done and return trips for leaking liners meaning a different approach was required," Maiden was told via text. "Sorry and good luck." Maiden filed a personal grievance following the digital dismissal – which came without notice or valid reason – but the water-reservoir building business insisted he couldn't pursue the claim because he was a casual employee. The Employment Relations Authority, however, quashed the notion. "Timbertank believes that because Mr Maiden was a casual employee (who was only employed on an 'as required' basis so had no minimum hours, pattern or days of work) then he cannot pursue a personal grievance claim. That is a misconception," stated Larmer. "An employee such as Mr Maiden who has no set or regular work pattern is still subject to the rights and protections of minimum code legislation. He was not working under a valid trial period," she continued. Larmer also clarified that Maiden was not employed on a fixed-term basis because none of the requirements laid out in the Employment Relations Act were met. Ultimately, Larmer found that Timbertank failed to comply with its good faith obligations because Maiden was dismissed without warning. She also found that the company violated procedural fairness tests and didn't have an adequate reason for dismissing the long tenure employee. She went on to award Maiden six months' actual lost remuneration, which she instructed to be calculated based on his average weekly earnings over the last six months of his employment. In addition, Larmer ordered Timbertank to pay Maiden \$9,000 for "the hurt, humiliation and stress" he suffered as a result of the unjust dismissal. The company was also forced to cover \$1,750 of Maiden's legal costs as



well as \$71.56 to reimburse his filing fee. She went on to award Maiden six months' actual lost remuneration, which she instructed to be calculated based on his average weekly earnings over the last six months of his employment.

EMPLOYMENT RELATIONS AND H&S SUPPORT AT MATHIESON CHARTERED ACCOUNTANTS

Our mission is to develop solutions, solve problems and to give you peace of mind. We provide a service to you that enables you to manage employment matters without fear. Lynda Mathieson is our Employment Relations and H&S expert to help prevent and resolve all your employment issues professionally. Giving you practical advice and support with compliant documentation ensuring that policies and procedures are in line with current legislation. Employment issues arising in the workplace can be complicated. Getting it wrong can cause unwanted stress and anxiety, least of all ultimately a costly outcome.

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business. Phone 027 55 44 747**