

**NEW ZEALAND LAWYERS AND
CONVEYANCERS DISCIPLINARY TRIBUNAL**

[2013] NZLCDT 50

LCDT 019/13

IN THE MATTER

of the Lawyers and Conveyancers
Act 2006

AND

IN THE MATTER

of **AIYSHA HORNSBY** of
Wellington, former employee of
practitioner

Respondent

CHAIR

Judge D F Clarkson

MEMBERS OF TRIBUNAL

Ms J Gray

Ms S Hughes QC

Dr I McAndrew

Mr K Raureti

HEARING at WELLINGTON on 7 November 2013

APPEARANCES

Mr M Hodge, for the Standards Committee

No appearance by the respondent

**DECISION OF NEW ZEALAND LAWYERS AND
CONVEYANCERS DISCIPLINARY TRIBUNAL**

[1] This was a matter in which two charges were laid against a former employee of a legal practitioner, Aiysha Hornsby. The two charges allege misconduct under s 11(a) of the Lawyers and Conveyancers Act, or s 11(b) as an alternative, alleging the stealing of firm funds in the sum of \$40 and \$80 respectively. Unsatisfactory conduct is pleaded in the alternative but I do not think we need to consider that.

[2] The evidence provided by the Standards Committee is from the two previous employers of this woman and the evidence satisfies us on the balance of probabilities, having regard to the seriousness of the allegations, that the charges have been established and that it is more probable than not that Ms Hornsby is the person who was responsible for the deficit in petty cash funds which was the source of the stolen money. The affidavits from the two previous employers also depose to dishonest behaviour in the sense which reinforces our findings in terms of these thefts, because she had previously been it seems dishonest concerning the taking of leave entitlement and receiving funds for that in a way that establishes duplication.

[3] Ms Hornsby had also been dishonest when taxed by the first employer about the mixing petty cash funds and denied having had access to the building after hours. She later admitted that she had lied about that and in fact was apprehended by being seen on video footage entering the building at a time when she had said that she not.

[4] So there has been clearly a breach of trust on behalf of this woman with both of her employers and a pattern of repeated dishonesty which is entirely unacceptable. As a legal employee there must be trust and confidence in an employee's honest in a profession which handles client funds and deals with sensitive and important client affairs, absolute integrity is required in all employees and for those reasons we propose to accept the submission of counsel for the Standards Committee that it is necessary for the protection of the public, and indeed for the protection of the reputation of the profession, that an order be made under s 242(1)(h) preventing Ms Hornsby from being employed in a legal firm.

[5] The following orders are made:

[a] There is an order under s 242(1)(h) of the Act preventing any practitioner from employing Ms Hornsby pending any further order of the Tribunal.

[b] It is proper that costs follow the event in this case. The costs are awarded as incurred by the Law Society pursuant to s 249 in the sum of \$3,760.67.

[c] The Tribunal costs under s 257 are awarded against the New Zealand Law Society. These costs are certified at \$965.00

[d] Those costs are to be reimbursed to the New Zealand Law Society by the respondent pursuant to an award under s 249.

DATED at WELLINGTON this 7th day of November 2013

Judge D F Clarkson
Chairperson