

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI  
TĀMAKI MAKAURAU ROHE**

[2025] NZERA 388  
3353509

BETWEEN                      DONG CHEN  
   Applicant  
  
AND                                TZC LIMITED  
   Respondent

Member of Authority:        Nicola Craig  
  
Representatives:              The applicant in person  
   No appearance for the respondent  
  
Investigation Meeting:        On the papers  
  
Submissions received:        30 June 2025 from the applicant  
   Nothing received from the respondent  
  
Determination:                2 July 2025

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**DETERMINATION OF THE AUTHORITY**

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**Employment relationship problem**

[1]     Dong Chen seeks a compliance order with a determination of the Authority of 20 December 2024 (the first determination) in which his former employer TZC Living Limited (TZC) was ordered to pay sums to him.<sup>1</sup>

**The Authority's investigation**

[2]     TZC has not participated in this proceeding although its director and sole shareholder Donghua (Tony) Zhang communicated with the Authority in the proceeding leading to the first determination.<sup>2</sup>

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<sup>1</sup> *Dong Chen v TZC Ltd* [2024] NZERA 769.

<sup>2</sup> Above at n 1, at [4] – [5].

[3] In this proceeding the Authority proposed, by way of a notice of direction, that this application should be decided on the papers, with the parties having the opportunity to provide any further material. A time was set for the parties to provide any objection to the proposal, otherwise the proposal was adopted. No comment was received. The parties were given a date by which to provide any material or confirm that they do not wish to do so. Nothing further was received. Mr Chen then confirmed that he had not received any payment.

[4] I am satisfied that the statement of problem and the notice of directions of the Authority were served on TZC's registered office.

[5] This matter is determined on the papers.

### **Compliance order**

[6] TZC had 28 days from 20 December 2024, being the date of the first determination, to pay Mr Chen:

- (a) \$3,229.08 as holiday pay, \$1,486.20 as sick pay and interest on those sums; and
- (b) \$71.55 for the Authority's filing fee.<sup>3</sup>

[7] The time for payment by TZC has well passed. There is no indication before the Authority of any attempt being made to comply with the first determination or of any intention to do so in the future. In those circumstances I exercise my discretion to under s 137(1)(b) of the Employment Relations Act 2000 to order compliance with the orders for payment in the first determination.

### **Penalty application**

[8] Mr Chen seeks a penalty be imposed on TZC. The Employment Court, rather than the Authority, is able to take further action regarding non-compliance with Authority determinations, so no order is made in this regard.<sup>4</sup> Where a person has not complied with a compliance order, the Court has the power to impose of a fine of up to \$40,000 or order that property be taken possession of (sequestered).<sup>5</sup>

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<sup>3</sup> Above at n 1, at [39].

<sup>4</sup> Employment Relations Act 2000 (the Act), s 140(6).

<sup>5</sup> The Act, s 140(6)(c) – (e).

[9] Alternatively Mr Chen may request certificates of determination regarding the Authority determinations and take them to the District Court for enforcement.

### **Costs**

[10] Mr Chen has been successful before the Authority in his compliance application. No representation fees were incurred. However, he is entitled to be paid for the Authority's filing fee of \$71.55 for this application.

### **Orders**

[11] Within 14 days of the date of this determination TZC Limited is to:

- Comply with the Authority's determination *Dong Chen v TZC Limited* [2024] NZERA 769 by paying Dong Chen:
  - \$3,229.08 as holiday pay, \$1,486.20 as sick pay and interest on those sums;<sup>6</sup> and
  - \$71.55 for the filing fee.
- Pay Dong Chen \$71.55 for the Authority's filing fee on this compliance application.

Nicola Craig  
Member of the Employment Relations Authority

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<sup>6</sup> Above at n 1, at [39].