



respondent has failed to take any steps or file any records or evidence in respect of the applicant's claims.

[3] Both parties were directed to file submissions but none were received. This matter now requires determination.

### **Wage arrears**

[4] The failure by the respondent to produce wage and time records as directed has prejudiced the applicant's ability to bring an accurate claim under s.131 of the Employment Relations Act 2000 (the Act).

[5] The applicant has produced evidence in the form of an affirmation from Innokenti Mikhalev, the respondent's former accountant.<sup>1</sup> Mr Mikhalev was familiar with the wage and leave records for Mr Sami. The evidence was that Mr Sami is owed wages and holiday pay of \$104,723.42. The applicant also seeks payment of KiwiSaver entitlements of \$1,316.90.

[6] Given the above, I accept as proved all claims by the applicant employee in respect of the wages paid, and hours, days and times worked.

[7] Accordingly, there is an order that Optimizer HQ Limited is to pay Lawrence Banaba Sami wage arrears of \$104,723.42 pursuant to s.131 of the Act.

[8] Optimizer HQ Limited is further directed to pay the sum of \$1,316.90 to a KiwiSaver provider nominated by Mr Sami pursuant to s.123(1)(c)(ii) of the Act.

### **Costs**

[9] Costs are reserved. If either party seeks an order for costs a memorandum shall be filed and served 14 days from the date of this determination. The other party shall have 14 days to file and serve a reply.

**T G Tetitaha**  
**Member of the Employment Relations Authority**

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<sup>1</sup> Affirmation I Mikhalev affirmed 1 July 2016.

