

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2025] NZERA 491
3318620

BETWEEN	WENTING (WENDY) WEI Applicant
AND	LANQUAN LIMITED First Respondent
AND	ZHOUSHENG (HELEN) CHEN Second Respondent
AND	DONGMING (TOM) LIN Third Respondent

Member of Authority:	Rachel Larmer
Representatives:	Applicant in person Zhousheng Chen for the First and Second Respondents Third Respondent in person
Investigation Meeting:	30 June 2025 in Auckland
Date of Determination:	14 August 2025

DETERMINATION OF THE AUTHORITY

Employment relationship problem

The parties

[1] The applicant, Ms Wenting Wei, has made employment claims against the first respondent Lanquan Limited (Lanquan), the second respondent Ms Zhousheng (Helen) Chen and the third respondent, Mr Dongming (Tom) Lin.

[2] Ms Wei is married to Mr Zhifei Shen, and they have two school age children. Mr Shen and Ms Wei both worked for Lanquan. Mr Shen has also made a range of employment claims against these three respondents, which have not yet been determined.¹

[3] The third respondent, Mr Lin, is Mr Shen's uncle. Mr Lin is the brother of Mr Shen's mother. The second respondent, Ms Chen, is Mr Lin's wife. Ms Chen is Lanquan's sole director and shareholder.

Material background

[4] Mr Shen and Mr Lin have other family members (in addition to Mr Shen's mother) who live in China. These other family members (namely Mr Lin's (now deceased) father and other sisters) in China were involved in communications about Mr Shen's and Ms Wei's employment by Lanquan and issues arising from that. These employment relationship problems have not just affected the parties but also their extended family members.

[5] Mr Lin asked Ms Chen to help Ms Wei and Mr Shen move to New Zealand. Ms Chen agreed that Lanquan would offer Ms Wei and Mr Shen employment to help them out as family members, as they believed it would be easier for them to get ahead by working in New Zealand than if they had remained running their own business in China.

[6] Decisions relating to the offer of employment arose from family based decisions and objectives, which had involved the parties and their other family members who lived in China, about how to help Mr Shen create a strong financial base for his immediate family. As it turned out, all of the parties have ended up feeling they had been misled and harmed by the opposing parties.

[7] Lanquan's employment of Ms Wei and Mr Shen was therefore not an operational business decision, because Lanquan was fully staffed and did not need any extra employees. Even though there was no business need for Lanquan to employ Ms Wei or her husband, Ms Chen did so in order to "help out family." If Ms Wei and Mr Shen had not been family members then Lanquan would not have employed them.

[8] For a number of reasons the employment relationship turned out to be unsatisfactory for all parties, which caused considerable stress and distress to the parties and their extended

¹ Mr Shen's matter AEA 3318600 has not yet been determined.

family. All parties told the Authority their health has been adversely affected by the employment relationship problems that had occurred. Although the Authority attempted to assist the parties to resolve their differences by agreement, that had not been possible as the parties remain deeply aggrieved with each other.

Accredited Employer Work Visa

[9] Ms Chen helped Mr Shen obtain his first Accredited Employer Work Visa (AEWV) as a chef in a Chinese restaurant that is owned by her cousin. Mr Shen's first AEWV was a three year work visa with Si Yuan Limited dated 20 April 2023. His AEWV was subsequently changed to Lanquan from 25 September 2023.

[10] Lanquan had become an Accredited Employer under the AEWV Scheme on 14 August 2023, solely for the purposes of employing Mr Shen. Lanquan did not employ any other employees who required a work visa, so it did not need to use its Accredited Employer status for any other employee.

[11] Mr Shen's work visa gave his spouse (Ms Wei) an open visa, meaning she could work for any employer without any restrictions on her employment. Their children also got free primary and secondary schooling in New Zealand as a result of Mr Shen's work visa, so that was also a factor that influenced their decision to live and work in New Zealand in order to get ahead financially.

[12] Like Ms Wei, Mr Shen also worked for Lanquan, although the dates and terms of his employment are disputed. Mr Shen's claims against the three respondents in this matter will be the subject of a separate Authority determination. What the parties can agree is that Mr Shen worked for Lanquan from 2 October 2023 to 6 August 2024. Although Mr Shen said he started work for Lanquan before October 2023, that claim is yet to be determined.

Lanquan's business

[13] Lanquan operated only one physical store, the "\$2 Plus" store, which was located in a small shopping mall in Stanmore Bay, Whangaparaoa (the store). It operated seven days a week, apart from Good Friday, Easter Sunday, Anzac Day, Christmas Day and New Year's Day.

[14] Ms Chen set up the store and she and Mr Lin had worked in it on a fulltime basis since its inception. Because it was Ms Chen's business, she also managed it as well as working fulltime in the store. Lanquan also employed two part-time employees to work in the store alongside the two fulltime employees (Ms Chen and Mr Lin).

[15] From the time the store opened it has had four employees working in it, two fulltime and two part-time. Ms Chen and Mr Lin both worked full time in the store and they were each paid a fortnightly salary of \$2,500.00. When Mr Shen started working for Lanquan in 2023, one part-time employee was paid \$24.00 per hour and the other was paid \$23.00 per hour.

[16] Lanquan's employees increased to five when Mr Shen was employed from (at least) October 2023 until his dismissal on 6 August 2024.² Lanquan had six employees during the three days Ms Wei worked in August/September 2023 and again from 4 March to 7 May 2024, when Ms Wei was also employed on a part-time basis. Mr Shen's days and hours of work are in dispute, as they varied over the course of his employment. His work visa required him to work at least 30 hours per week.

[17] Ms Wei and Mr Shen were effectively 'supernumerary' employees, because the days and hours of work of Lanquan's four other employees did not change as a result of Ms Wei's and Mr Shen's employment. Ms Wei's and Mr Shen's had more limited English language skills than the other employees who also had English as their second language, so that language barrier affected Ms Wei's and Mr Shen's ability to engage with customers and work on the register in the store.

[18] When the business was sold on 30 September 2024, Ms Chen and Mr Lin were still working full time but were paid \$1,600.00 per fortnight, one part-time employee was paid \$25.00 per hour and the other was paid \$23.50 per hour.

[19] The store operated seven days a week with two employees on duty each day, one at the counter managing customers and the register and the other handling inventory, restocking, shelf organisation and cleaning. It was a flat structure, meaning there was no hierarchy because all employees (including Mr Lin and Ms Chen) had the same duties and did the same work in the store. Ms Wei's limited English meant she did not usually deal with customers or work the

² The date Mr Shen started working for Lanquan is disputed.

register if another employee was available to do so. Ms Chen also managed the business as its owner.

[20] Although the store was fully staffed, Mr Lin convinced Ms Chen to offer Ms Wei and Mr Shen work so they could come and live in New Zealand with their two school age children in order to better their family's financial situation.

[21] The decisions that were made regarding Ms Wei's and Mr Shen's employment by Lanquan were made within a broader family context. Family who lived in China were therefore involved in communications about employment matters and the decisions that were made about Ms Wei's and Mr Shen's employment relationships were based on overall extended family objectives, not Lanquan's business objectives.

[22] Lanquan appeared to have treated Ms Wei and Mr Shen as 'one person' in terms of calculating one overall wage for them by basing their wages on what they as a 'family unit' would be paid, instead of on the actual hours and rate of pay that applied to each of them as separate employees. The Authority corrected that by ensuring Ms Wei's employment entitlements were calculated and paid to her as an individual employee.

[23] Notwithstanding the family dynamic that existed, Lanquan as the employer still had to comply with the same minimum code legislation that applied to all other New Zealand employers and employees. Family members who are employed do not forgo any employment rights because there is a family connection/relationship between the employer and employee.

Mr Shen

[24] Mr Shen arrived in New Zealand on 13 July 2023 and he lived for free with Mr Lin and Ms Chen until Ms Wei and their two children arrived in New Zealand on 23 August 2023. The four of them lived with Mr Lin and Ms Shen for around seven and a half weeks, and they paid board of \$400.00 per week during that period. Mr Shen, Ms Wei and their two children moved to their own rental unit on 15 October 2023.

[25] From 2 October 2023 Mr Lin reduced his fortnightly fulltime salary from \$2,500.00 to \$1,600.00 per fortnight (without reducing his working hours) so that money could be used for Mr Shen's wages.

Ms Wei

[26] Ms Wei was expecting to work after her arrival in New Zealand on 23 August 2023, but she only ended up working for Lanquan for three days (31 August, 2 and 8 September 2023). After three days, Ms Chen told Ms Wei there was insufficient work for her to do. These three days Ms Wei worked for Lanquan are described as “the first period of employment”.

[27] Ms Wei said she was not paid for these days and did not receive any holiday pay when her employment ended. After Ms Wei was unable to find alternative work in New Zealand, she returned to live in China on 6 December 2023 with the children. Mr Lin visited China in December 2023 to sort out with the extended family who were living in China various matters relating to Ms Wei’s and Mr Shen’s employment in New Zealand.

[28] This visit resulted in an agreement that Ms Wei would return to New Zealand and work for Lanquan for five hours a day for five days a week (25 hours per week). However, that did not occur because when Ms Wei returned to New Zealand in late February 2024 she was only given three days’ work of eight hours per day, as she had only been rostered to work a total of 24 hours per week. This was one hour less than had been agreed by the parties in January/February 2024, before Ms Wei agreed to return to New Zealand.

[29] Ms Chen told the Authority she could not roster Ms Wei to work more than three days a week as Ms Wei could not be rostered to work the same days as Mr Shen, because one of them needed to be home to look after their eight year old son who was too young to be left alone. Ms Wei denied that she could only work three days a week, as she said their boarder was available to look after her son while she and her husband were at work. Ms Wei said she had not agreed for her hours to be reduced from 25 hours work per week to 24 hours work per week.

[30] In March 2024, Ms Chen reduced her own fortnightly salary for the fulltime hours she worked in the store (without reducing her working hours) from \$2,500.00 to \$1,600.00 to accommodate Lanquan’s employment of Ms Wei.

[31] From March 2024, Mr Shen worked 30 hours a week over four days (the minimum hours required by his work visa) and Ms Wei worked three eight days (24 hours per week). There is a dispute between the parties about Ms Wei’s agreed rate of pay and about what was

agreed regarding Ms Wei's and Mr Shen's days and hours of work, which is addressed later in this determination.

[32] Ms Wei's second period of employment started on 4 March 2024 and ended on 7 May 2024, which was the last day she worked in the store. Lanquan claimed it had continued to pay Ms Wei until the end of June, which it described as "seven weeks' notice period", but that was disputed.

Ms Wei's claims

[33] Ms Wei claimed that Lanquan:

- (a) Breached the Wages Protection Act 1983 (WPA) and she sought a penalty for that;
- (b) Failed to give her a written employment agreement;
- (c) Failed to give her rest breaks, and she sought a penalty for that;
- (d) Failed to keep the legally required employment documentation for her;
- (e) Failed to pay her correctly for the hours she worked;
- (f) Failed to roster her for the agreed 25 hours work per week;
- (g) Failed to pay her any annual holiday pay when her employment ended;
- (h) Unjustifiably disadvantaged her in her employment, regarding her bathroom use;
- (i) Unjustifiably dismissed her by WeChat message on 7 May 2024;
- (j) Had engaged in multiple breaches of employment standards.

[34] Ms Wei also sought leave from the Authority to recover any money that Lanquan defaulted on paying her from Ms Chen and/or Mr Lin personally.

Respondents' response to the claims

[35] The three respondents denied all of Ms Wei's claims, except for admitting that she had not been given a written employment agreement.

The Authority's investigation

[36] The Authority held a one day in-person investigation in Auckland, and was assisted by a Mandarin interpreter.

[37] Ms Wei and her husband Mr Shen gave evidence on her behalf. Ms Chen and her husband Mr Lin gave evidence for the respondents. One of Lanquan's part-time employees, Mr Richard Chae, gave evidence in-person for the respondents, with the assistance of a Korean interpreter.

[38] The Authority gave the parties a preliminary indication of the likely outcome of Ms Wei's claims, in the hope that would assist the parties to resolve their issues by agreement, but that did not occur.

Issues

[39] The following issues are to be determined:

- (a) When did Lanquan employ Ms Wei?
- (b) Did Lanquan provide Ms Wei with a written employment agreement?
- (c) What were Ms Wei's agreed terms and conditions of employment?
- (d) Did Lanquan keep the legally required employment records for Ms Wei?
- (e) What dates, days, and hours did Ms Wei actually work?
- (f) Did Lanquan pay Ms Wei 'pay as you go' annual holiday pay?
- (g) Was Ms Wei rostered and paid for less than her agreed contractual hours of work?
- (h) What has Ms Wei been paid?
- (i) What should Ms Wei have been paid?
- (j) Is Ms Wei owed wage arrears?
- (k) Should interest be awarded on any wage arrears?
- (l) Did Lanquan breach its statutory rest break obligations under the Act?
- (m) If so, should a penalty be imposed on it?
- (n) Did Lanquan breach the Wages Protection Act 1983 (the WPA)?

- (o) If so, should a penalty be imposed on Lanquan?
- (p) Should any penalties that are imposed be paid to Ms Wei instead of, or as well as, the Crown?
- (q) Has there been a breach of employment standards?
- (r) If so, was Ms Chen and/or Mr Lin ‘a person involved in a breach of employment standards’, as defined by s 142W of the Act?
- (s) Can Lanquan pay Ms Wei any wage arrears and other money she is owed?
- (t) Should Ms Wei be granted leave to recover from Ms Chen and/or Mr Lin personally any wage arrears and other money Lanquan defaults on paying her?
- (u) Did Lanquan unjustifiably disadvantage Ms Wei by:
 - (i) Criticising her for excessive bathroom use?
 - (ii) Limiting her bathroom visits to rest breaks?
 - (iii) Preventing her from using the bathroom when she needed to?
- (v) Was Ms Wei’s dismissal justified?
- (w) If not, what remedies should she be awarded?
- (x) Should any remedies be reduced on the grounds of contribution?
- (y) What costs and disbursements should be awarded?

When did Lanquan employ Ms Wei?

[40] Ms Wei and the children arrived in New Zealand for the first time on 23 August 2023 and they returned to China on 6 December 2023. Ms Wei returned to New Zealand in late February 2024.

[41] Ms Wei was in New Zealand, and worked for Lanquan, for two separate periods of employment.

First period of employment

[42] Ms Wei’s first period of employment was casual work in August and September 2023, during which she worked in the store for a total of three days. Ms Wei expected to be paid for this work, so she was an employee as defined by s 6 of the Act. Ms Wei did not do this work for Lanquan as a volunteer, as she worked with the expectation she would be paid for her time.

[43] Ms Wei worked a total of 23.5 hours during her first period of employment. She worked:

- (a) 8 hours on Thursday, 31 August 2023;
- (b) 7.5 hours on Saturday, 2 September 2023; and
- (c) 8 hours on Friday, 8 September 2023.

Second period of employment

[44] Ms Wei's second period of employment was from 4 March to 7 May 2024. She worked for eight hours a day on Tuesdays, Wednesdays and Fridays during this second period of employment, subject to the following exception:

- (a) Ms Wei worked 8 hours on Thursday 28 March 2024 to cover Mr Shen's absence that day, even though Thursday was not normally a working day for her;
- (b) Ms Wei did not work on Friday 29 March 2024, which was her usual work day, because she had worked the previous day to cover her husband's absence.

[45] Ms Wei worked for a total of 224 hours during her second period of employment, consisting of eight hours on 28 days over the period 4 March to 7 May 2024.

Did Lanquan provide Ms Wei with a written employment agreement?

[46] Lanquan failed to provide Ms Wei with a written employment agreement, in breach of s 65 of the Act. That omission caused many problems.

What were Ms Wei's agreed terms and conditions of employment?

Hourly rate

[47] Ms Wei's evidence that the respondents agreed to pay her \$29.66 per hour was not accepted, as this made no logical or business sense and it was not reflected in the communications the Authority reviewed.

[48] Ms Wei said she assumed she would be paid this amount because that is the minimum rate of pay specified in her husband's work visa. However, Ms Wei had an open work visa, so did not have to be paid more than the applicable minimum wage hourly rate. In the absence of an agreed pay rate, the minimum wage rate applied.

[49] The Authority preferred the respondent's evidence that Ms Wei would be paid \$23.00 per hour, as it was more likely than not to be correct for the following reasons:

- (a) Unlike Mr Shen, Ms Wei's did not have a minimum pay rate associated with her open work visa;
- (b) The minimum wage rate in 2023 up to 31 March 2024 was \$22.70, raising to \$23.15 from 1 April 2024;
- (c) Ms Wei's English was very poor, so it was difficult for her to serve customers or work on the register in the store;
- (d) The two part-time employees who had been employed since the business started were paid \$23.00 and 24.00 per hour;
- (e) It did not make sense for Ms Wei to be paid so much more than the two longstanding part-time employees when she was unable to do all of the work they could do;
- (f) Lanquan did not need Ms Wei to work for it as it was already fully staffed, it had only offered her work to help her out as an extended family member;
- (g) Mr Lin and Ms Chen both took \$900.00 per fortnight pay decreases, so that portion of their previous salaries could be used to pay Ms Wei and Mr Shen.

Number of days and hours to be worked

(i) First period of employment

[50] Ms Wei had an open work visa, so it was anticipated she would be able to obtain work when she got to New Zealand. However, her lack of English hindered other employment opportunities, so Lanquan employed her on a casual 'as required' basis as a gesture of goodwill in order to help Mr Shen and his family.

[51] This short casual engagement of Ms Wei did not work out. There was insufficient work for Ms Wei to do because her English was so limited, which is why she only worked for three days. The only issue Ms Wei raised about this period of employment was Lanquan's failure to pay her wages and holiday pay.

(ii) Second period of employment

[52] Ms Wei was living in China with the children and Mr Shen was living and working in New Zealand when the parties discussed and negotiated her return to New Zealand with their son.³ These communications held in January and February 2024 resulted in Ms Wei's return to New Zealand with her son in late February 2024.

[53] There is no dispute that in February 2024 the parties agreed Ms Wei would work for Lanquan for 25 hours per week, which she would work over five, five hour, days. There is also no dispute that once Ms Wei got to New Zealand she was only rostered to work 24 hours work a week (not 25 hours), which she worked over three, eight hour, days.

[54] Ms Chen told the Authority she had rostered Ms Wei to work 24 hours over three days during the second period of her employment because Ms Wei's eight year old son could not be left home alone. That meant Ms Wei and Mr Shen had to be rostered to work on different days, so one of them could be with their son. Ms Wei disputed that and said they had a boarder who could watch their son while they were at work.

[55] Ms Chen made the unilateral decision to reduce the total number of hours and days Ms Wei would work from 4 March 2024 onwards. Ms Chen was not asked to do that by Ms Wei or Mr Shen and this change was not discussed with them, so it was implemented without any consultation or agreement. Nor was this change documented or properly communicated to Ms Wei, it was simply reflected in the roster. Ms Wei was never asked to agree to these changes, and she told the Authority she did not do so.

[56] Having agreed on Ms Wei's days and hours of work in January/February 2024, Lanquan could not unilaterally change them without Ms Wei's agreement, which did not occur.

[57] Lanquan therefore had to provide and pay Ms Wei for her 25 contracted (agreed) hours of work per week. Lanquan's failure to roster Ms Wei for 25 hours each week did not mean it did not have to meet its contractual obligation to pay her for 25 hours a week. Although Ms Wei worked only 24 hours a week, that occurred at Lanquan's sole discretion without Ms Wei's

³ The daughter remained studying in China when Ms Wei returned with her son to New Zealand in late February 2024.

agreement to reduce her hours, so Lanquan still had to pay her for 25 hours a week even though she had only actually worked 24 hours a week.

[58] Lanquan's agreed contractual obligation was to pay Ms Wei for 25 hours work a week during her second period of employment. She has therefore been short paid for one hour per week for the nine weeks she had worked over the period 4 March to 7 May 2024.

Notice period

[59] In the absence of an agreed notice clause, a period of reasonable notice had to be implied into the verbal employment agreement.

[60] Ms Wei was a part-time employee, being paid the minimum wage, and who had only worked for 28 days over the period 4 March to 7 May 2024. In these circumstances one week's notice of termination or pay in lieu of notice was reasonable.

Did Lanquan keep the legally required employment records for Ms Wei?

Required employment documentation

[61] Lanquan, as Ms Wei's employer, was required to keep legally compliant wage and time records for Ms Wei, as required by s 130 of the Employment Relations Act (the Act). Lanquan was also required to keep legally compliant holiday and leave records, as required by s 81 of the Holidays Act 2003 (the HA03).

[62] Although Lanquan was directed by the Authority to produce Ms Wei wage and time records and her holiday and leave records, that did not occur.

[63] Lanquan's failure to provide legally compliant wage and time records, and holiday and leave records, for Ms Wei when directed to do so breached its obligations under:

- (a) Section 130 of the Act to keep and provide upon request Ms Wei's wage and time records;
- (b) Section 81 of the HA03 to keep and produce on request Ms Wei's holiday and leave records.

Effect of s 132(2) of the Act

[64] Section 132(2) of the Act therefore applied, which permitted the Authority to accept Ms Wei's evidence about the wages she was paid and the hours, days and times she had worked, unless that evidence was proven to be incorrect.

[65] The Authority based its factual findings about what days and hours Ms Wei worked and what she was paid based mainly on the available documentation. However, Ms Wei's evidence regarding the work she did in 2023 was accepted by the Authority pursuant to s 132(2) of the Act, as the respondents did not prove it was incorrect.

[66] The records Ms Chen constructed for the days and hours Ms Wei worked in 2024 were accepted, as these were not disputed. The Inland Revenue (IRD) print out of what Ms Wei was paid by Lanquan was used to establish what Ms Wei had been paid by Lanquan. That was considered to be the most reliable evidence of what Ms Wei had been paid, as it reflected what Lanquan had officially reported to IRD about that.

What dates, days, and hours did Ms Wei actually work?

[67] Ms Wei worked three days in 2023 (31 August, 2 and 8 September 2023). From 4 March to 7 May 2024, Ms Wei worked three days a week on Tuesdays, Wednesdays and Fridays, subject to the exception she had worked on Thursday 28 March 2024 instead of Friday 29 March 2024. Her last day working in the store was Tuesday, 7 May 2024.

[68] Ms Wei worked 23.5 hours during her first period of employment and 224 hours during her second period of employment. However, she was also entitled to be paid for a further nine hours that arose from the one hour per week shortfall in rostered hours that occurred over the nine weeks from 4 March to 5 May 2024 (being her last full week of work, as she had only worked on 7 May 2024 during the following week).

[69] Adjusting the number of hours Ms Wei should have worked, had there not been the one hour per week shortfall in the weekly hours she had been rostered to work for the nine complete weeks she had worked in 2024, meant the total number of hours work she should have been rostered and paid for during 2024 was 233 (being 224 hours she actually worked plus nine additional hours she should have worked, but was not rostered to work).

[70] Ms Wei should have been paid for a total of 256.5 working hours by Lanquan. These hours are calculated as follows:

- (a) 23.5 hours worked in 2023;
- (b) 224 hours actually worked in 2024;
- (c) 9 additional hours she was contractually entitled to have worked and been paid for, but for which she had not been rostered to work.

[71] The nine additional hours in paragraph [70](c) above required an extra one hour per week to be added to Ms Wei's hours of work to account for the shortfall of one hour per week for the nine complete weeks she had worked 2024.

Did Lanquan pay Ms Wei 'pay as you go' annual holiday pay?

Annual holiday pay

[72] Ms Chen's claim that Lanquan had paid Ms Wei 'pay as you go' holiday pay of ten percent of her gross wages "in advance" was not accepted.

[73] Section 28 of the Holidays Act 2003 (the HA03) prescribes when 'pay as you go' holiday pay can be paid to an employee and none of those conditions were met in Ms Wei's case. In particular:

- (a) Ms Wei was not a fixed term employee;
- (b) Her work was not so intermittent or irregular that it was impracticable to provide her with annual holidays under s 16 of the HA03;
- (c) There was no written employment agreement;
- (d) The annual holiday pay was not paid as an identifiable component of her pay;
- (e) It was not clear how much annual holiday pay had been paid with Ms Wei's normal wages.

[74] Sections 23(2) of the HA03 required Ms Wei to be paid holiday pay calculated as eight percent of her total gross earnings. Section 27(1)(b) of the HA03 required MS Wei to be paid her annual holiday pay when her employment ended.

Was Ms Wei rostered and paid for less than her contractual hours of work?

[75] It was agreed Ms Wei would work for 25 hours a week. She did not subsequently agree to reduce her total hours of work per week.

[76] Ms Wei was therefore contractually entitled to be rostered and paid for 25 hours work per week. However, that did not occur. She was only rostered to work 24 hours each week. That meant Ms Wei was short paid by one hour every week over the period 4 March to 5 April 2024.

[77] The minimum wage rate increased on 1 April 2024, so the amount Ms Wei should have been paid for the rostered shortfall in working hours was \$23.00 per hour prior to 1 April 2024 and \$23.15 per hour after that date.

What has Ms Wei been paid?

[78] According to the IRD records, Lanquan paid Ms Wei a total of \$4,665.15 gross, consisting of:

- (a) \$2,487.00 over the period 20 August 2023 to 7 May 2024, being her last day of work; and
- (b) \$2,178.15 over the period 8 May 2024 to 26 February 2025, being the period after her employment had ended.

What should Ms Wei have been paid?

Hours of work and applicable hourly rate

[79] For the purposes of calculating Ms Wei's arrears claims, she was entitled to be paid:

- (a) \$23.00 per hour for the 23.5 total hours she worked in August and September 2023 and for the total 96 hours she worked in March 2024;
- (b) \$23.15 per hour for the 128 total hours she worked in April and May 2024;
- (c) \$23.00 per hour for four hours, due to the four weeks in March 2024 when she was incorrectly rostered to work 24 hours instead of 25 hours per week;
- (d) \$23.15 per hour for five hours, due to the five weeks from 1 April to 5 May 2024 when she was incorrectly rostered to work 24 hours instead of 25 hours per week.

Adjustment for shortfall in contracted hours of work

[80] If Ms Wei had been correctly rostered and paid for 25 hours per week in 2024, then she would have been paid:

- (a) \$632.50, being her agreed \$23.00 hourly rate for 27.5 hours (being 23.5 hours worked plus 4 hours shortfall) worked up to 31 March 2024; and
- (b) \$3,078.95, being the minimum wage rate of \$23.15 for 133 hours (being 128 hours worked plus 5 hours shortfall) after the minimum wage increased on 1 April 2024 to above her agreed hourly rate of \$23.00.

Annual holiday pay on wages

[81] Ms Wei should have been paid eight percent annual holiday pay on the 23.5 hours she worked in 2023. Her total gross earnings were \$540.50, so she should have been paid \$43.24 annual holiday pay when her employment ended on 8 September 2023. However, that did not occur.

[82] Ms Wei should have been paid eight percent on her total gross earnings during 2024, but she was not paid any annual holiday pay when her employment ended on 7 May 2024.

What should Ms Wei have been paid for the first period of employment?

[83] Ms Wei should have been paid \$583.74 gross, consisting of \$540.50 wages for the three days she worked in August and September 2023 plus \$43.24 holiday pay for her first period of employment in 2023. However, she was not paid anything.

What should Ms Wei have been paid for the second period of employment?

[84] For her second period of employment in 2024, if paid correctly Ms Wei would have been paid \$5,809.27, calculated as follows:

- (a) \$2,208.00 for the 96 hours she worked in March 2024 (96 hours x her agreed rate of \$23.00 per hour);
- (b) \$2,963.20 for the 128 hours she worked from 1 April to 7 May 2024 (128 hours x the minimum wage of \$23.15 per hour);
- (c) \$413.70 annual holiday pay, being eight percent of her total gross wages of \$5,171.20 for the 224 hours she worked from 4 March to 7 May 2024;

- (d) \$92.00 for the four hours x the agreed hourly rate of \$23.00, that arose from the shortfall of four rostered hours in March 2024;
- (e) \$115.75 for the five hours x the minimum wage rate of \$23.15 per hour, that arose from the shortfall of five rostered hours over the period 1 April 2024 to 5 May 2024;
- (f) \$16.62 being eight percent annual holiday pay on the \$207.75 gross shortfall in her wages to reflect the nine hours she should have been, but was not, rostered to work over the nine weeks' period from 4 March to 5 April 2024.

[85] The shortfalls referred to in paragraph [84](d)-(f) above arise from Ms Wei being paid for 24 hours work when she was contractually entitled to be paid for 25 hours work per week. The total shortfall of one hour per week from 4 March to 5 May 2024 amounted to \$207.75 gross (being, \$92.00 plus \$115.75, as per paragraph [84](d) and (e) above).

Unpaid notice pay entitlements

[86] Ms Wei was dismissed without notice. Ms Chen's claim that Lanquan had paid Ms Wei seven weeks' notice, because she had been paid until the end of June 2024 was not accepted. The post-employment payments made after 7 May 2024 would have repaid the shortfall in the wages Ms Wei should have been paid while employed if she had been had paid correctly.

[87] Ms Wei was contractually entitled to be paid for her agreed 25 hours work per week. The minimum wage was \$23.15 when Ms Wei was dismissed. Lanquan should have paid Ms Wei \$578.75 pay in lieu of notice (25 hours x \$23.15 per hour) when her employment ended. She was also entitled to be paid \$46.30 holiday pay on her notice pay (being \$578.75 gross notice pay x 8% annual holiday pay).

[88] When Ms Wei's employment ended in May 2024, she should have been paid notice related entitlements of \$625.05, consisting of \$578.75 for one week's pay in lieu of notice plus \$46.30 as eight percent annual holiday pay on her notice pay.

Is Ms Wei owed wage arrears?

Is there a shortfall in what Ms Wei was paid?

[89] Ms Wei should have been paid a total of \$7,018.06 gross by Lanquan for her employment in 2023 and 2024, consisting of:

- (a) \$583.74, for her first period of employment;
- (b) \$5,809.27, for her second period of employment;
- (c) \$625.05, pay in lieu of notice plus holiday pay on her notice pay.

[90] However, Ms Wei:

- (a) Was not paid for the three days she worked in 2023;
- (b) Was paid a total of \$4,665.15 gross for her second period of employment in 2024;
- (c) Was not paid any pay in lieu of notice or holiday pay on her notice pay when her employment ended on 7 May 2024.

[91] Because Lanquan only paid Ms Wei a total of \$4,665.15 gross, she is owed wage arrears of \$2,352.91 gross (being \$7,018.06 that she should have been paid less the \$4,665.15 she was actually paid).

Finding on the wage arrears claim

[92] Ms Wei's total gross wage arrears of \$2,352.91 includes unpaid holiday pay of \$519.86, consisting of:

- (a) \$43.24 holiday pay arrears from her first period of employment in 2023;
- (b) \$430.32 (being \$413.70 from hours worked plus \$16.62 for the one hour a week shortfall in rostered hours) holiday pay arrears from her second period of employment in 2024;
- (c) \$46.30 holiday pay arrears on her unpaid notice pay of \$578.75.

Should interest be awarded on the wage arrears?

[93] Lanquan has had the benefit of using Ms Wei's wages which should have paid her in May 2024 at the latest. It was therefore appropriate to award Ms Wei interest to recognise she has been deprived of the use of her own money by Lanquan's failure to pay her wages and holiday pay when they became due.

[94] Interest is to be paid on Ms Wei's wage arrears of \$2,352.91 from 8 May 2024 (the day after her employment ended) until 14 August 2025 (the date of this determination).

[95] Interest is to be calculated using the Civil Debt Calculator on the Ministry of Justice website. Accordingly, Lanquan is ordered to pay Ms Wei \$166.50 interest for the period 8 May 2024 to 14 August 2025. Interest continues to accrue from 15 August 2025 (the day after this determination has been issued to the parties) onwards until Ms Wei has been fully paid.

Did Lanquan breach its statutory rest break obligations under the Act?

[96] Section 69ZD of the Act required Lanquan to provide employees with two ten minute rest breaks if they worked more than six hours in a day, plus a 30 minute unpaid lunch break.

[97] Ms Wei's evidence that she was not permitted to take rest breaks was not accepted. Employees self-managed their rest breaks, which was confirmed by the respondents and Mr Chae. All other employees, including Mr Shen, took their rest breaks at their own discretion. It had always been like that and that did not change after Ms Wei was employed.

[98] Ms Wei was told at the outset of her employment she was entitled to rest breaks, so she knew that. Ms Wei said she did not take rest breaks because no-one told her to take a break. However, the evidence established employees could take a break whenever they wanted to, as long as someone was still available in the store to attend to customers.

[99] Ms Wei's claim that Lanquan breached the rest break requirements in s 69ZD of the Act did not succeed.

Did Lanquan breach the Wages Protection Act?

[100] Section 4 of the WPA requires an employer to pay employees' wages without deduction when they become due. Lanquan breached s 4 of the WPA because it failed to pay Ms Wei for the hours she worked in 2023, it failed to pay her correct wages in 2024 and it failed to pay her any holiday pay on each occasion her employment with Lanquan had ended.

Should a penalty be imposed on Lanquan?

[101] It is appropriate to impose a penalty on Lanquan for its breaches of the WPA. There were multiple breaches of the WPA which shall be globalised into one representative breach for the purposes of imposing a penalty.

[102] Having regard to the mandatory factors set out in s 133A of the Act, it is appropriate to impose a penalty of \$1,000.00 on Lanquan for its breach of the WPA. This is proportionate with the wrongdoing and consistent with penalties imposed in other cases. It also recognised

the financial and emotional harm Ms Wei (as a vulnerable non-English speaking employee) has suffered by not being paid correctly or when her wages and holiday pay became due and that this harm had still not yet been remedied.

[103] A penalty of \$1,000.00 is sufficient to punish and deter Lanquan as a first time offender and to act as a deterrence to other employers who may be inclined to breach the WPA.

Should the penalty be paid to Ms Wei instead of, or as well as, the Crown?

[104] The breaches of the WPA have harmed Ms Wei and she cannot be compensated for that. She has incurred the time and expense of bringing the WPA breaches to the Authority's attention. It is appropriate for Lanquan to pay \$500.00 of the penalty directly to Ms Wei to recognise that. The remaining \$500.00 balance of the \$1,000.00 penalty imposed on Lanquan is to be paid directly to the Crown bank account.

Has there been a breach of employment standards?

[105] Section 5 of the Act defines employment standards. This definition includes:

- (a) A breach of s 64 of the Act, which requires an employer to retain a copy of an employee's individual employment agreement or their individual terms and conditions of employment;
- (b) A breach of s 130 of the Act which requires an employer to keep and produce wage and time records for employees;
- (c) Breaches of the minimum entitlements and payments to employees due under the HA03;
- (d) A breach of the requirements in s 81 and 82 of the HA03, regarding the employer's obligation to keep and produce holiday and leave records for employees;
- (e) A breach of the minimum entitlements provided for by the Minimum Wage Act 1983 (the MWA); and
- (f) A breach of the provisions of the WPA.

[106] Lanquan has clearly engaged in multiple breaches of employment standards, as defined by s 5 of the Act, as it failed to:

- (a) Pay Ms Wei for the hours she had worked in 2023;
- (b) Pay holiday pay at the end of Ms Wei's first period of employment;
- (c) Pay Ms Wei correctly and on time for the hours she worked in 2024;
- (d) Pay Ms Wei the minimum wage for the hours she worked from 1 April to 7 May 2024 (she was paid \$23.00 when the minimum wage for that period was \$23.15 per hour);
- (e) Pay her holiday pay when her second period of employment ended;
- (f) Comply with the MWA, HA03 and WPA;
- (g) Keep and produce on request Ms Wei's employment documentation in breach of s130 of the Act and s 81 of the HA03.

Was Ms Chen and/or Mr Lin 'a person involved in a breach of employment standards'?

Section 142W of the Act

[107] Section 142W of the Act sets out when a person is involved in a breaches of employment standards. That occurs where the person has (among other things) aided, abetted, counselled or procured the breach or has induced the breach or has in any way, directly or indirectly, knowingly concerned in or party to the breach.

[108] Section 142W(2) of the Act provides that where a company has engaged in a breach of employment standards then a person may only be treated as a person involved in a breach if they are an officer of the company.

Ms Chen's involvement

[109] Ms Chen as Lanquan's sole director was responsible for ensuring Lanquan complied with its employment law obligations but she failed to do so.

[110] Ms Wei's claim that Ms Chen is 'a person involved in a breach of employment standards', as per s 142W of the Act succeeded.

Mr Lin's involvement

[111] Mr Lin was not an officer of Lanquan, so he was not captured by s 142W(3) of the Act. Mr Lin did not exercise “significant influence over the management or administration” of Lanquan, as that was exclusively Ms Chen’s domain.⁴

[112] Mr Lin did not own or manage the business. All business decisions were made by Ms Chen, who was also solely responsible for the rosters, pay matters, employment documentation and the like.

[113] Ms Wei’s claim that Mr Lin was ‘a person involved in a breach of employment standards’, as per s 142W of the Act did not succeed.

Can Lanquan pay Ms Wei the wage arrears and other money she is owed?

[114] Lanquan sold its business in September 2024, and does not appear to have any income or assets. Lanquan failed to lodge its annual return with the Companies Office. The Companies Registrar has therefore advertised the intended removal of Lanquan from the Companies Register under s 318 of the Companies Act 1993.

[115] It appears likely that Lanquan will be unable to pay Ms Wei the wage arrears and other money she has been awarded in this determination. To obtain clarity about that, within 28 days of the date of this determination Ms Chen as Lanquan’s sole director is ordered to:

- (a) Either take the necessary steps to ensure Lanquan paid Ms Wei the wage arrears and other money she has been awarded in this determination;
- (b) Or advise Ms Wei in writing that Lanquan is unable to pay the wage arrears and other money she has been awarded in this determination and explain why it cannot pay her.

[116] Compliance by Ms Chen with this order will make it clear whether Lanquan has defaulted on paying Ms Wei. That information will put Ms Wei on notice about whether she needs to the money Lanquan owed her from Ms Chen personally.

⁴ Section 142W(3)(e) of the Act.

Should Ms Wei be granted leave to pursue Ms Chen and/or Mr Lin personally for the wage arrears and money she is owed if Lanquan defaults on paying her?

[117] Section 142Y of the Act provides that an employee may recover from a person who is not their employer wages or other money that they are owed by the employer if the default in the payment of wages or other money to them by the employer is due to a breach of employment standards, and the person who is liable to pay is ‘a person involved in the breach of employment standards’, within the meaning of s 142W.

[118] That is the case here. There has been a breach of employment standards by Ms Wei’s employer Lanquan. Ms Chen was the person who was directly involved in the multiple breaches of employment standards that have occurred. Mr Lin was not a person involved in the breaches of employment standards that have occurred.

[119] Section 142Y of the Act permits the recovery of wage arrears and other money from an individual with the prior leave of the Authority, to the extent that the employees’ employer is unable to pay the wage arrears or other money, as per s 142Y(2) of the Act.

[120] Ms Wei is given leave to recover the wage arrears and other money she is owed by Lanquan from Ms Chen personally, to the extent Lanquan defaults on paying her (Ms Wei). Lanquan is no longer a going concern, as it sold its business on 30 September 2024 and is not generating any income, so there is a risk it will be unable to pay Ms Wei.

[121] Ms Wei’s application for leave to pursue Ms Chen personally for money Lanquan defaulted on paying her succeeded, but her application to pursue Mr Lin personally did not succeed.

Did Lanquan unjustifiably disadvantage Ms Wei regarding her bathroom related concerns?

Was Ms Wei criticised for excessive bathroom use?

[122] After Ms Wei went to the bathroom eleven times in one day she was asked to try to keep her repeated and lengthy bathroom visits to break times. That suggestion was not unjustified in all the circumstances.

Was Ms Wei's ability to go to the bathroom limited?

[123] The evidence established that Ms Wei's bathroom use was never limited or restricted. She did not have to ask permission to go to the bathroom, so self-managed her bathroom breaks.

[124] Ms Wei's evidence was that she felt bad using the bathroom so much so she had tried to limit the number of times she went, which made her feel stressed. However, that was an issue arising from Ms Wei's own feelings and not from any unjustified action by Lanquan.

Was Ms Wei prevented from using the bathroom?

[125] Ms Wei accepted when questioned by the Authority that she had never been prevented from using the bathroom, so she was free to have used it whenever she had wanted to. The other witnesses also confirmed that.

Outcome of the disadvantage grievance claim

[126] The bathroom concerns were a new issue that arose for the first time in connection with these proceedings. If it had been of concern during Ms Wei's employment then the bathroom concerns would likely have been raised with her husband, the respondents or with the extended family members in China (as other employment concerns had been).

[127] Ms Wei's unjustified disadvantage grievances regarding her bathroom use did not succeed.

Was Ms Wei's dismissal justified?

Relevant facts

[128] Ms Chen sent Ms Wei and Mr Shen a WeChat message on 7 May 2024 that said business had been slow, Ms Wei was not to continue working in the store and that Mr Shen's hours of work had also been reduced. There was no consultation with Ms Wei. She was simply told not to come back to work and that she would continue to be paid for the next seven weeks, until the end of June 2024.

Justification test

[129] Justification is to be assessed in accordance with the justification test in s 103A of the Act. This required the Authority to objectively assess whether Lanquan's actions, and how it

acted, were what a fair and reasonable employer could have done in all the circumstances at the time Ms Wei was dismissed.⁵

[130] Accordingly, there are two elements to justifying a dismissal, procedural fairness (which includes good faith considerations) and substantive justification, which requires the employer to have a good reason for dismissing the employee.

[131] A fair and reasonable employer is expected to comply with its statutory and contractual obligations. Failure to do so could fundamentally undermine its ability to justify its actions and/or dismissal of an employee.

[132] Relevant statutory obligations included the good faith requirements in s 4(1A)(c) of the Act to provide access to relevant information, and an opportunity to comment on it, before a final decision was made. It also included each of the four minimum procedural fairness tests set out in s 103A(3) of the Act.

Good faith requirements

[133] Section 4(1A)(c) of the Act requires an employer that is proposing to make a decision that could adversely affect an employee's ongoing employment, to provide the employee with access to information and a reasonable opportunity to comment on it. That did not occur.

[134] Ms Wei was not given advance notice that her ongoing employment was at risk. Because she was deprived of access to any information relevant to decisions about her ongoing employment, she had no chance to comment on matters that were relevant to whether or not her employment should end. This was a serious breach of Lanquan's good faith obligations, and was unfair to Ms Wei.

[135] Lanquan did not comply with its good faith obligations in s 4(1A) of the Act because it failed to provide Ms Wei with access to any relevant information, so she had no opportunity before being dismissed to comment on the information that had influenced Ms Chen's decision to end Ms Wei's employment.

⁵ Section 103A(2) of the Act.

Procedural fairness requirements

[136] Section 103A(3) of the Act sets out four minimum procedural fairness tests that an employer is expected to comply with before an employee is dismissed.

[137] Section 103A(3)(a) of the Act required Lanquan to “sufficiently investigate” the circumstances that resulted in the disestablishment of Ms Wei’s position and her redundancy. In a redundancy situation that would involve preparing a proposal that identified the employee’s ongoing employment was in jeopardy. That did not occur, so Lanquan breached its obligations under s 103A(3)(a) of the Act.

[138] Section 103A(3)(b) of the Act required Lanquan to “raise concerns” with Ms Wei before she was dismissed. However, it failed to do so. Ms Wei simply received a WeChat from Ms Chen that told her not to come to work anymore. That was insufficient to comply with Lanquan’s obligations in s 103A(3)(b) of the Act.

[139] Section 103A(3)(c) of the Act required Lanquan to give Ms Wei a “reasonable opportunity to respond” to its concerns, before he was dismissed. That did not occur. Ms Wei had no opportunity to respond to any of the factors that had caused Lanquan to disestablish her position, because her redundancy was presented to her as *fait accompli*, in breach of s 103A(3)(c) of the Act.

[140] Section 103A(3)(d) of the Act required Lanquan to “genuinely consider” Ms Wei’s feedback to its restructuring proposal. That did not occur. Lanquan never gave Ms Wei a restructuring proposal, selection criteria, or any other information, thereby depriving her of any opportunity to respond to the factors that had put her ongoing employment in jeopardy, in breach of s 103A(3)(d) of the Act.

Section 103A(5) of the Act

[141] Lanquan’s failure to comply with any of the minimum statutory good faith and procedural fairness requirements that needed to be observed by an employer in order to justify an employee’s dismissal fundamentally undermined its ability to justify Ms Wei’s dismissal.

[142] These process errors were not minor and did result in Ms Wei being treated unfairly. Section 103(5) of the Act therefore did not preclude the Authority from finding her dismissal was carried out in a procedurally unfair, and therefore unjustified, way.

Substantive justification

[143] Evidence from the respondents established that the store had faced sharply declining sales since January 2024. Its traditionally busy times had been unexpectedly slow and sales were not where they needed to be for a profitable business.

[144] At the same time the wages bill had increased in March 2024, due to Ms Wei's employment. Mr Lin (in October 2023) and Ms Chen (in March 2024) had both reduced their salaries by \$900 each per fortnight to accommodate Mr Shen's and Ms Wei's employment.

[145] Around this time Ms Chen was suffering from potentially serious health issues and was under medical advice to reduce stress. Lanquan's lease in the mall also expired in August 2024. These were additional factors that resulted in Ms Chen's decision to exit the business, and the business was put on the market in July/August 2024.

[146] Once the decision had been made in early May 2024 to sell the business it made sense to reduce the staff and wages so it did not put off prospective buyers. Ms Chen and Mr Lin had already reduced their salaries so these could not be cut further.

[147] The two part-time employees had been engaged since the business started, so they were more knowledgeable about their work and the business than Ms Wei was. The two part-time employees also had much better English language skills than Ms Wei did, so they were able to easily deal with customers and queries in a way Ms Wei was unable to. Ms Wei was the last employee to be employed, so it made sense for her to be selected for redundancy when one position was disestablished.

[148] Ms Wei was dismissed in order to reduce Lanquan's wages bill prior to the business being put on the market for sale. Six employees were being paid when only four employees were needed. Ms Wei's position was surplus to requirements. Given the small size of the store, there were no suitable alternative positions available for her so, redeployment was not an available option.

[149] Lanquan has established that it had genuine commercial reasons for making Ms Wei redundant, so her dismissal was substantively justified.

Outcome of dismissal grievance claim

[150] Ms Wei's personal grievance for unjustified dismissal succeeded. Although Lanquan had a good reason for making Ms Wei redundant, the way it implemented that decision was procedurally unjustified. It was therefore a procedurally unjustified dismissal only.

What remedies should be awarded?*Lost remuneration*

[151] Ms Wei's dismissal was substantively justified but was carried out in a procedurally unjustified manner. She is therefore not entitled to an award of lost remuneration, as a fair and proper process would have resulted in her redundancy dismissal being justified in all of the circumstances.

Distress compensation

[152] Ms Wei was hurt, humiliated and distressed to receive a WeChat from Ms Chen message on the evening of 7 May 2025 that ended her employment. Losing her income without any prior consultation adversely affected the family, and put them under considerable financial pressure.

[153] Lanquan is ordered to pay Ms Wei \$7,000.00 without deduction, under s 123(1)(c)(i) of the Act to compensate her for the humiliation, loss of dignity, and injury to feelings her abrupt and unexpected dismissal had on her.

Should remedies be reduced on the grounds of contribution?

[154] Section 124 of the Act required the Authority to assess the extent to which Ms Wei contributed to the situation that gave rise to her dismissal grievance, and if so reduce remedies accordingly.

[155] Contribution denotes blameworthy conduct that has been proven on the balance of probabilities. No such blameworthy conduct was established, so Ms Wei's remedies are not to be reduced.

What costs and disbursements should be awarded?

[156] The parties told the Authority that no 'without prejudice except as to costs' communications had occurred and that no settlement offers had been made.

[157] Ms Wei was self-represented during the investigation meeting as she said she could not continue to afford the legal fees she had incurred prior to then, which were in excess of \$4,500.00. As the successful party, Ms Wei is entitled to a contribution towards the legal fees she has actually incurred.

[158] Ms Wei's matter involved a one-day investigation meeting, so the notional starting tariff is \$4,500.00. However, that needed to be reduced to \$2,250.00 to reflect that Ms Wei's legal fees were incurred prior to the investigation meeting and the daily tariff has been set to include attendance at a one-day investigation meeting.

[159] Accordingly, Lanquan is ordered to pay Ms Wei \$2,321.55, being a contribution of \$2,250.00 towards her actual legal costs plus \$71.55 to reimburse her filing fee. Because Ms Wei's claims against Mr Lin did not succeed, he has not been ordered to contribute to her legal costs. Mr Lin, as an unrepresented party, was not entitled to costs.

Orders

Ms Wei

[160] If Lanquan is removed from the Companies Register the Authority will not be able to issue any determinations against it and Ms Wei will not be able to enforce this determination against Lanquan.

[161] Ms Wei therefore needs to ask the Companies Registrar (as soon as possible) not to remove Lanquan from the Companies Register until these proceedings have been completed. Mr Shen should do likewise for his Authority proceedings.

Lanquan

[162] Within 28 days of the date of this determination, Lanquan is ordered to pay Ms Wei \$12,966.01, consisting of:

- (a) \$583.74 wage arrears from her first period of employment in 2023;
- (b) \$1,769.17 wage arrears from her second period of employment in 2024;
- (c) \$625.05 notice pay and associated holiday pay arrears for her second period of employment in 2024;

- (d) \$166.50 interest on her wage and notice pay arrears from 8 May 2024 to 14 August 2025, calculated using the Civil Debt Calculator on the Ministry of Justice website;
- (e) \$500.00 of the total \$1,000.00 penalty imposed for the breach of the WPA;
- (f) \$7,000.00 distress compensation under s 123(1)(c)(i) of the Act;
- (g) \$2,321.55 towards her actual legal costs and disbursements.

Ms Chen

[163] Within 28 days of the date of this determination, Ms Chen as Lanquan's sole director, is ordered to take the necessary steps to ensure Lanquan:

- (a) Paid Ms Wei the \$12,966.01 she has been awarded in this determination;
- (b) Paid the \$500.00 of the total \$1,000.00 penalty that was imposed under s13 of the WPA to the Crown bank account;
- (c) If it was unable to pay Ms Wei informed her of that.

[164] If Lanquan defaults on paying Ms Wei, she has been granted leave to personally recover the outstanding wage arrears and other money Lanquan owed her from Ms Chen personally.

[165] That meant that if Lanquan defaults on paying Ms Wei within 28 days of the date of this determination, then Ms Chen is ordered to personally pay Ms Wei the wage arrears and other money Lanquan is unable to pay her. In which case, Ms Chen is ordered to personally pay Ms Wei any amount Lanquan owed her but was unable to pay within 28 days of the date of this determination.

Accruing interest

[166] Interest continues to accrue on any part of the \$12,966.01 Ms Wei was awarded in this determination that remains outstanding from the 12 September 2025 (being 28 days after the date of this determination) onwards, until Ms Wei has been paid in full. Interest is to be calculated using the Civil Debt Calculator on the Ministry of Justice website.

Rachel Larmer
Employment Relations Authority Member