

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2019] NZERA 454
3042571

BETWEEN	A LABOUR INSPECTOR OF THE MINISTRY OF MINISTRY OF BUSINESS INNOVATION AND EMPLOYMENT Applicant
AND	GAUTAM RAJAN KAPUR aka KAPOOR First Respondent
AND	SUNRISE HORTICULTURE LIMITED Second Respondent
AND	GAUTAM RAJAN KAPUR aka KAPOOR Third Respondent

Member of Authority: Rachel Larmer

Representatives: Marija Urlich, counsel for the Applicant
Gautam Kapur in person
No appearance by Second Respondent

Investigation Meeting: 28 and 29 May 2019 at Tauranga

Date of Determination: 1 August 2019

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] The Labour Inspector applicant in this matter is designated under s 223 of the Employment Relations Act 2000 (the Act), and has been employed by Ministry of Business, Innovation and Employment (MBIE) since 22 October 2006.

[2] This matter involves a dispute over who employed workers, who the Labour Inspector claimed are owed wage arrears and who have been the subject of breaches of minimum code legislation.

[3] The Labour Inspector, and the workers she represents, identified Mr Kapur as the employer who was responsible for the breaches that occurred. Mr Kapur denied that he was the employer and he claimed the workers had been employed by Sunrise Hort Limited.

Sunrise Hort Limited

[4] The Authority notes that the Second Respondent in this matter, Sunrise Horticulture Limited, is not the same legal entity as the Sunrise Hort Limited (Sunrise). Each entity has a different and apparently unrelated sole director and shareholder.

[5] Mr Kapur claimed he had been employed by Sunrise for two or three weeks only, during a trial period that ended by mutual agreement. Mr Kapur claimed that his involvement with the workers, who the Labour Inspector is pursuing these claims for, was in his capacity as Sunrise's employee only, and not in his personal capacity.

[6] The sole director and shareholder of Sunrise is Mr Vidya Sagar Syba, according to information he gave the Labour Inspector confirming his correct legal name, just before he was deported from New Zealand. His name is recorded with the Companies Office as "*Syba Vidyasagar*."

[7] Mr Syba used fictitious addresses for himself, and the registered office, when he incorporated Sunrise because he was in New Zealand illegally.

[8] When the Labour Inspector interviewed him before he was deported last year, Mr Syba claimed his involvement in Sunrise was a sham, undertaken at Mr Kapur's behest. The circumstances of Sunrise's incorporation and Mr Syba's involvement with it are discussed in more detail later in this determination.

Mr Gautum Kapur aka Kapoor

[9] The Labour Inspector identified Mr Kapur as the employer responsible for the multiple breaches of minimum code legislation that occurred.

[10] Mr Kapur is a well-known contractor in the horticulture and viticulture industries in Hawke's Bay and Eastern Bay of Plenty areas. He has owned and operated a number of businesses and different companies within the industry.

[11] Mr Kapur is someone who is also known to MBIE, and other government agencies, as a result of his involvement in entities involved in the horticulture industry. At the investigation meeting a list of 16 companies Mr Kapur had been closely associated with within the industry was handed up to the Authority.

The Singaporean workers

[12] The Labour Inspector claims that Mr Kapur employed the four young Singaporean women, who were in New Zealand on a working holiday. They were employed to work, pruning kiwifruit, on a kiwifruit orchard in Pukehina that is owned and operated by Joba Orchard Limited.

[13] The four young female Singaporeans who the Labour Inspector is representing are:

- (a) Ms Qiyin Aw;
- (b) Ms Pui Yee Amy Lim;
- (c) Ms Gwendaline Hui Fen Ang; and
- (d) Ms Poh Toon Ling.

[14] They are referred to collectively in this determination as "*the workers*".

Employment of the workers

[15] These four young women all currently reside in Singapore and English is not their primary language. They all gave evidence during the Authority's investigation meeting by way of a telephone conference call.

[16] The workers were visiting New Zealand on working holiday visas that allowed them to work and travel around New Zealand. This was their first working holiday outside of Singapore.

[17] When they were in New Zealand the workers saw a job vacancy advertised online for horticultural workers. Ms Aw sent an email to the address provided in the online

advertisement. This email address was Mr Kapur's hotmail address. Mr Kapur responded to Ms Aw's inquiry on 16 September 2017.

[18] Mr Kapur called Ms Aw and they discussed the type of work and when she and her three other Singaporean friends would be available to start work, which she told him was 20 September 2017.

[19] The workers met with Mr Kapur on 19 September 2017 at the Awakeri Hot Springs. During this meeting Mr Kapur discussed the job he was offering them and the pay and the location of the orchard that they would be working on.

[20] Nothing was put in writing at this time, but Mr Kapur told them that they all had jobs and he arranged for the workers to meet him the next day (20 September 2017) at the Pukehina orchard at 8am to start work.

[21] The workers were not provided with any employment documentation before they reported to their first day of work. However, they knew that they should have been provided with written employment agreements so they insisted to Mr Kapur that they needed something in writing.

[22] He subsequently did provide them with some documentation, but that occurred after the workers had already worked on 20 September 2017. Mr Kapur gave the workers blank individual employment agreement templates, IRD forms and pre-employment application forms.

[23] Mr Kapur told the workers what to write on the blank employment agreement templates he had given them, and they wrote what he told them on to the templates in their own handwriting.

[24] Mr Kapur told the workers to write "*Sunrise Hort*" as their employer. The workers said that they had not heard of this entity before so assumed that it was Mr Kapur's business name.

[25] Mr Kapur did not explain to the workers how he was connected to Sunrise Hort, that it supposedly employed him, or what it meant that "*Sunrise Hort*" was a trading name and not a legal entity. The workers told the Authority that they had believed that Mr Kapur was their employer because he was the only person they had any dealings with.

Work done by the workers but not paid

[26] The workers all worked the same days and hours pruning kiwifruit on the Pukehina orchard. They each worked for five days over the period 20 September until 24 September 2017 inclusive for a total of 31.5 hours, allowing for a half-an-hour unpaid lunch break each day. Their working hours for each day over that period were as follows:

- (a) 20 September – 8am until 4:30pm – 8 hours
- (b) 21 September – 8am until 10:00am – 2 hours (work was cut short due to rain)
- (c) 22 September – 8am until 4:30pm – 8 hours
- (d) 23 September – 8am until 4:30pm – 8 hours
- (e) 24 September – 11am until 4:30pm – 5.5 hours

[27] On 24 September 2017 Mr Kapur sent a text message to the workers to say that there would be no work the following day (25 September) but that he would be in touch when more work was available. The workers asked him to pay their wages.

[28] On 25 September 2017 Mr Kapur texted the workers to say that they would be paid “*next Friday*”. On 30 September 2017 Mr Kapur texted the workers to say that the hourly job would be “*a day or two*” of work and that the money would show up “*on Monday*”. He also stated that he would send them a text with how much they were to be paid.

[29] On 2 October 2017 the workers sent a text to Mr Kapur to see where their wages were. Mr Kapur messaged them back on 3 October 2017 saying he was sorry, that he was out of town and would be back “*tomorrow evening to pay the wages*” and would “*let them know about more work*”.

[30] On 4 October 2017 Mr Kapur sent a message to the workers saying that they hadn’t been paid because the orchard owner had deducted \$3,000 from the job, because it had not been done properly.

[31] This was the first time that the workers had been told there were any issues with the work they had done. It is noteworthy that only occurred after they had been asking Mr Kapur to pay them their missing wages.

[32] On 12 October 2017 Mr Kapur called the workers and told them that he would pay them the next day. He asked them to send their email addresses so he could send the workers' payslips. The workers did what he had asked them to do, but they never heard from Mr Kapur again.

[33] None of the workers were paid anything for any of the work they had done, nor did they receive any payslips. Although after 13 October 2017 the workers made many attempts to call Mr Kapur, he never answered their calls or responded to them again.

Labour Inspector's involvement

[34] Ms Aw made a complaint to MBIE which was referred to the Labour Inspector on 19 October 2017.

[35] On 27 November 2017 the Labour Inspector emailed and couriered Mr Kapur questions regarding the workers' complaint and requested copies of their timesheets, employment agreements, wage and time records and holiday and leave records.

[36] This request was not responded to, so the Labour Inspector served a notice on Mr Kapur and on Sunrise requiring disclosure of the wage and time records and holiday and leave records for the workers under ss 229 and 232 of the Employment Relations Act 2000 (the Act).

[37] On 19 December 2017 the Labour Inspector discovered that Sunrise's registered address for service, as recorded on the Companies Office, was an empty plot of land.

[38] On 13 February 2018 the Labour Inspector emailed Mr Kapur expressing concern that he had not responded to her emails and couriered letters and that he had not produced the documents he had been notified that the Labour Inspector required. She also issued him with a warning for obstructing her investigation under s 235 of the Act.

[39] On 23 February 2018 Mr Kapur emailed the Labour Inspector saying that he was not a director or shareholder of Sunrise. He claimed he had been employed by Sunrise for two to three weeks on an unsuccessful trial period, so all questions regarding the workers should be directed to Sunrise, not him.

[40] The Labour Inspector took statements from the workers who confirmed that all their dealings regarding the work that they did was with Mr Kapur only and he had not told them he was acting as an agent or employee for Sunrise. The Authority notes that “*Sunrise Hort*” was a trading name only, and not a legal entity, because the word “*Limited*” was missing.

Mr Mohinda Singh

[41] The Labour Inspector also interviewed the owner of the Pukehina orchard that the workers had worked on. At that time Mohinda Singh was the director of Joba Orchard Limited. He subsequently sold that business to his ex-wife.

[42] Mr Singh told the Labour Inspector that he had never heard of Sunrise, nor of Sunrise’s director, Mr Syba. Mr Singh confirmed that he had not engaged Sunrise to undertake any work on the Pukehina orchard.

[43] Mr Singh did not give evidence in person to the Authority. Mr Singh’s statement to the Labour Inspector said that a friend of his, who knew he needed work done on the Pukehina orchard, had referred him to Mr Kapur as someone who was experienced and well known in the horticulture industry.

[44] Mr Singh told the Labour Inspector he had spoken with Mr Kapur and they had met at the Pukehina orchard to discuss the winter pruning work that needed to be done.

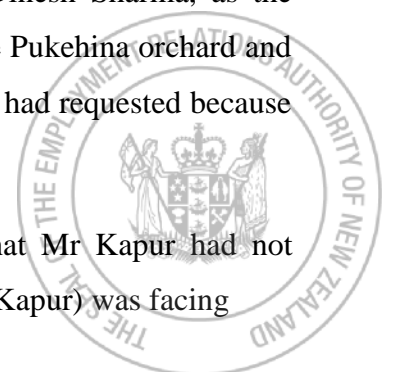
[45] Mr Singh said that he initially met Mr Kapur by himself. He also met Mr Kapur again the next day and that the second meeting Mr Kapur was accompanied by Mr Dinesh Sharma, who at that time was the director of Danish Horticulture Limited.

[46] Mr Singh said that Joba Orchard Limited paid Danish Horticulture Limited \$16,405.80 for the work that was undertaken on the Pukehina orchard.

Danish Horticulture Limited

[47] On 4 June 2018 Mr Kapur told the Labour Inspector that Dinesh Sharma, as the director of Danish Horticulture Limited, was the main contractor at the Pukehina orchard and that Mr Kapur could not give the Labour Inspector the information she had requested because he was no longer working for Sunrise.

[48] On 3 August 2018 Mr Sharma told the Labour Inspector that Mr Kapur had not wanted to contract directly with Joba Orchard Limited because he (Mr Kapur) was facing



criminal charges involving the Inland Revenue Department (IRD) regarding his (Mr Kapur's) operation of other companies.

[49] Mr Sharma claimed that was the reason why his company Danish Horticulture Limited was the entity that had contracted with Joba Orchard Limited to do the pruning work on the Pukehina orchard.

[50] Mr Sharma told the Labour Inspector that Mr Kapur asked to bring some of his workers to the Pukehina orchard so he could give them work. Mr Sharma said that he told Mr Kapur that was not acceptable, because the work that was being done (pruning the kiwifruit) was too technical.

[51] Mr Sharma said he told Mr Kapur that he (Mr Sharma) did not want Mr Kapur's workers, who didn't know how to do pruning, on the Pukehina orchard, because it was too hard to teach them what to do. Mr Sharma claimed that Mr Kapur responded by saying that he (Mr Kapur) had just wanted to bring workers on to the orchard so that he could teach them what to do.

[52] Mr Sharma claimed to have told Mr Kapur that he (Mr Kapur) could do what he wanted but that he (Mr Sharma) and Danish Horticulture Limited would not be paying any workers that Mr Kapur brought onto the Pukehina orchard, and would not give them any work to do because in his (Mr Sharma's) view they would not have been able to do the work properly and he was not in a position to train them.

[53] Mr Sharma told the Labour Inspector that once the pruning work was finished, Joba Orchard Limited paid Danish Horticulture Limited, which in turn paid the workers that Danish Horticulture Limited had engaged to undertake the pruning work on the Pukehina orchard. That did not include the four Singaporean workers who Mr Kuper had brought to work on the orchard.

[54] Mr Sharma told the Labour Inspector and Authority that he paid Mr Kapur \$4,000 or \$5,000 in cash (there was no record of what payment had been made or when it was made), supposedly for introducing the Pukehina orchard work to him.

Mr Vidya Sagar Syba

[55] Labour Inspectors Vanessa Dobber and Kate Fisher interviewed Mr Syba on 9 August 2018, before he was deported from New Zealand.

[56] Mr Syba said he had been working for Danish Horticulture Limited and that Mr Sharma (who Mr Syba referred to using the nickname “*Phammi*”) knew that he (Mr Syba) was unlawfully in New Zealand. Apparently Mr Sharma introduced Mr Syba to Mr Kapur, who also knew he (Mr Syba) was illegally in New Zealand.

[57] Mr Syba told the Labour Inspectors that after he had worked for Mr Sharma’s company, Danish Horticulture Limited, for approximately six to eight months, Mr Sharma and Mr Kapur both approached Mr Syba together and asked him to set up Sunrise. In return they said they would both help Mr Syba with his visa application by paying his legal fees.

[58] Mr Syba’s account to the Labour Inspectors was that he, Mr Sharma and Mr Kapur, went to the Whakatane library together and registered the Sunrise Hort Limited company online. Mr Syba said that Mr Kapur stood over him and told him what to write on the company forms in order to incorporate Sunrise.

[59] Mr Kapur and Mr Sharma admitted accompanying Mr Syba to the library, but say they were merely “*helping*” him to register Sunrise.

[60] Mr Syba told the Labour Inspectors that a few months after Sunrise had been incorporated, Mr Sharma and Mr Kapur asked him (Mr Syba) to take over Mr Sharma’s company - Danish Horticulture Limited.

[61] Mr Syba told the Labour Inspectors that Mr Sharma and Mr Kapur told him that if he did not agree to take over Danish Horticulture Limited then they would tell the police that he was an overstayer, and he would be deported from New Zealand.

[62] Mr Syba said based on that threat he signed the paperwork required to transfer Danish Horticulture Limited to him. As part of that arrangement he went to the bank with Mr Sharma and Mr Kapur and was given access to, and signing rights on, Danish Horticulture Limited’s bank account.

[63] Mr Syba said that on approximately three or four occasions Mr Kapur told him (Mr Syba) how much cash to withdraw from the Danish Horticulture Limited bank account, which Mr Syba was required to immediately hand over to Mr Kapur.

[64] Mr Syba told the Labour Inspectors that he became worried about the large cash withdrawals he was making and passing on to Mr Kapur. Mr Syba told the Labour Inspectors that he got so scared about the large amounts of money he was withdrawing in cash from the Danish Horticulture Limited bank accounts that he left the area, and had not had any contact with Mr Kapur or Mr Sharma since then.

[65] Mr Syba was subsequently discovered by the police in the South Island, which resulted in him being deported from New Zealand.

At the time that Mr Kapur ‘helped’ Mr Syba incorporate Sunrise, Mr Syba had no savings or lawful means to support himself, he provided false addresses to the Companies Office when incorporating Sunrise and he was hiding in New Zealand for fear of being deported.

Labour Inspector’s interactions with Mr Kapur

[66] It is also noteworthy that at the time the Labour Inspector was engaging with Mr Kapur about the workers complaints she believed he was with Mr Syba, so he (Mr Kapur) could have provided Mr Syba’s whereabouts but he failed to disclose that information to her.

[67] The Authority noted that at the time the advertisement that the workers responded to was published Sunrise had not been incorporated. Mr Kapur could not have been working for Sunrise before it was incorporated on 20 September 2017.

[68] The Labour Inspector later discovered that Mr Kapur purchased Danish Horticulture Limited for \$10,000 on 23 January 2018 on the basis he took over all of its debts and liabilities. This money was paid to Mr Sharma, not Mr Syba.

[69] Mr Kapur did not engage with the Labour Inspector or co-operate with her investigation. He was obstructive in his dealings with the Labour Inspectorate.

[70] The Labour Inspector informed the Authority that Mr Kapur had refused to meet with her to discuss the matter or to respond to her request for information about himself or Sunrise.

[71] The Labour Inspector told the Authority that she considered Mr Kapur's behaviour had been obstructive to her investigation and that she believed that he had personally employed the workers, so he was personally responsible for the employment breaches that had occurred.

[72] Alternatively, the Labour Inspector said that if the Authority did not agree that Mr Kapur was the employer of the workers then he was nevertheless a person who was responsible for the minimum code employment breaches that had occurred by Sunrise, so she had joined him as a Third Respondent to these proceedings on that basis.

[73] Mr Kapur's position was that he has no legal responsibility for either employing the workers or for not meeting the minimum code standards in terms of the provision of employment agreements, the payment of wages or the keeping of employment records.

Exploitation of migrant workers

[74] The Labour Inspector told the Authority that this was viewed as a matter involving exploitation of migrant workers because the four workers were all of Singaporean descent, English was not their first language and they had little knowledge of New Zealand employment law.

[75] The Labour Inspector advised the Authority that she considered that Mr Kapur had taken advantage of the workers' migrant status and transient nature of their working holiday in New Zealand to deprive them of their minimum employment entitlements. The Authority agrees with that assessment.

Identity of the workers' employer

[76] The evidence produced by the Labour Inspector established on the balance of probabilities that Mr Kapur personally employed the four workers, who were not paid for the work that they did on the Pukehina orchard.

[77] Mr Kapur placed the advertisement. His email and phone number were recorded as the contacts for the workers. Mr Kapur was the only person that had any direct contact with the workers.

[78] Mr Kapur made the workers the verbal offer of employment, that they verbally accepted his offer on 19 September 2017. The employment relationship between Mr Kapur and the workers was therefore created when the workers communicated to Mr Kapur that they had accepted his offer of work. That occurred on 19 September – the day before Sunrise was incorporated.

[79] He told the workers where they would be working, what work they would be doing, how much they would be paid and what hours and days they would work. He told them what work was available. When there was no work available, he also advised them of that. Mr Kapur arranged for the workers to work on the Pukehina orchard, and he met them there on their first day of work.

[80] Mr Kapur was also the only person who had any communications with the workers regarding their unpaid wages. He never advised the workers, or even suggested, that some other person or legal entity or employer was responsible for paying the workers' wages. During these communications Mr Kapur indicated that he would be paying the workers, not someone else.

[81] The Authority did not find Mr Kapur's evidence that Sunrise employed the workers to be credible.

[82] Mr Kapur failed to inform the workers that he was not acting or engaging with them in his personal capacity but was doing so on behalf of another legal entity (Sunrise) which was a limited liability company. There was no employment documentation to support Mr Kapur's claim that he had been employed by Sunrise.

[83] There was no evidence that he had ever been employed or paid by Sunrise. There were no wage and time records or holiday and leave records or IRD records or even an employment agreement to establish any employment relationship between Mr Kapur and Sunrise had ever existed.

[84] It is also significant that Mr Kapur did not immediately alert the Labour Inspector to the fact that he was not the employer and that Sunrise was when she first started her investigation into the workers' complaints.

[85] The Authority preferred the Labour Inspector's evidence that Mr Syba had been set up as a sham director of Sunrise, because he was someone Mr Kapur could easily control. That sham arrangement was necessary because Mr Kapur's involvement in criminal proceedings involving IRD meant he did not want to appear to be holding directorships or shareholdings himself.

[86] By involving Mr Syba as the sole director and shareholder of Sunrise and then controlling what Mr Syba did by way of threats of deportation if he did not do what he was told and by way of inducements of financial assistance with his visa application, Mr Kapur could effectively run Sunrise without detection from the IRD.

[87] Sunrise was also a vehicle that Mr Kapur could conveniently blame for any employment breaches that occurred, thereby (at least in his view) enabling him to avoid scrutiny and/or personal liability for any wrongdoing that occurred.

[88] Mr Syba had no experience running companies and had no profile as an experienced kiwifruit operator in the Bay of Plenty area, or elsewhere. That was in stark contrast to Mr Kapur who was very experienced in running multiple companies and who was someone who had a long history of being involved in the kiwifruit industry in the Bay of Plenty and surrounding areas.

[89] Unlike Mr Syba, Mr Kapur was also someone of means, as evidenced by his ability to purchase the Danish Horticulture Limited entity for \$10,000 cash. Mr Syba's situation was in stark contrast to Mr Kapur's.

[90] Mr Syba was under constant threat of deportation so he was easy to exploit. Mr Syba was reliant on under the table cash jobs and he was located by the Police living in a car in the South Island. Mr Syba had no history or experience in running companies or in running teams of workers in the kiwifruit industry, while Mr Kapur did.

[91] It is also significant that at the time the advertisement for orchard workers was placed, and when the workers were offered and accepted employment at the Pukehina orchard, Sunrise did not legally exist. Sunrise could not have entered into an employment relationship with anyone, including the workers, before it had been incorporated on 20 September 2017.

Doctrine of undisclosed principal

[92] Even if Mr Kapur was not the workers' employer, because he was acting as Sunrise's agent only, it was significant that Mr Kapur never advised the workers of that. The omission to disclose that he was acting for another legal entity, and not in his personal capacity, meant that the doctrine of the undisclosed principal applied to him.

[93] There was nothing to alert the workers to the fact that Mr Kapur was not acting on his own behalf but was offering them employment and engaging with them on behalf of another legal entity, namely Sunrise.

[94] Because Mr Kapur failed to disclose to the workers that they were in fact entering into a contractual employment relationship with another legal entity (Sunrise), the doctrine of the undisclosed principal meant they could hold Mr Kapur personally liable, as their employer, even if he had intended for Sunrise to be the employer, and not him personally.

[95] The Authority has made this finding to highlight that even if Mr Kapur's evidence had been accepted (and it was not), that would not have enabled him to have avoided personal liability for the breaches of employment legislation that have occurred in this case.

Authority findings on each of the Labour Inspector's claims

[96] The Labour Inspector has proved to the required standard that Mr Kapur is personally responsible for:

- (a) Failing to provide each of the four workers with legally compliant employment agreements that met all of the mandatory requirements of s 65 of the Act;
- (b) Breaching the Minimum Wage Act 1983 (MWA) by failing to pay the four workers the minimum hourly wage rate for the work they did;
- (c) Breaching the Holidays Act 2003 (HA03) by failing to pay the four workers their statutory holiday pay of 8% of their total gross earnings upon termination of their employment;
- (d) Failing to keep or produce upon request wage and time records for the four workers, in breach of s 130 of the Act;

- (e) Failing to keep or produce upon request holiday and leave records for each of the four workers in breach of s 81 of HA03;
- (f) Paying the four workers the amount of \$496.13 each in outstanding wage arrears for the work they did at the Pukehina orchard;
- (g) Paying the four workers \$39.69 each as outstanding holiday pay arrears.

[97] The nature of Mr Kapur's breaches are such that it is appropriate and necessary to impose penalties on him under sections:

- (i) 65(4) of the Act for not providing the four workers with legally compliant employment agreements;
- (ii) 229(3) of the Act for not supplying upon request to the Labour Inspector wage and time records, holiday and leave records and employment agreements for the four workers.

Additional penalties information requested

[98] The Authority currently has insufficient information to be able to fairly assess penalties. The parties are therefore invited to file additional evidence and/or submissions to address:

- (a) Each of the factors in s133A of the Act;
- (b) Consistency with other comparable cases;
- (c) Mr Kumar's culpability;
- (d) The need for deterrence;
- (e) Ability to pay - if that is an issue. The Authority notes that Mr Kapur told it during the investigation meeting that he would not face any financial difficulties in paying penalties if penalties were imposed on him;
- (f) Proportionality compared to the breaches being penalised; and
- (g) The *Borsboom v Preet PVT Limited* penalty considerations identified by the full Employment Court, which involved a four step penalty assessment process.¹

¹ [2016] NZEmpC 143.

Penalties timetable

[99] The penalties to be imposed on Mr Kapur will be assessed ‘on the papers’ in accordance with the following timetable:

- (a) Labour Inspector submissions on penalties within 21 days of the date of this determination;
- (b) Mr Kapur’s submissions on penalties due within 14 days of service of Labour Inspector’s penalty submissions;
- (c) Labour Inspector’s reply submissions (if any) to be filed within 7 days of service of Mr Kapur’s submissions.

Interest

[100] Mr Kapur is ordered to pay interest on the wage arrears owed to each of the four workers under the Interest on Money Claims Act 2016.

[101] Interest is to be calculated in accordance with the Ministry of Justice’s online “*Civil Debt Interest Calculator*” on the total amount of \$535.82 (being \$496.13 wage arrears plus \$39.69 holiday pay arrears) from 25 September 2017 until that amount has been paid in full.

Orders

[102] Mr Kumar is ordered to pay the Labour Inspector, to disburse to each worker, \$535.82 per worker, plus all of the interest that has been awarded on that amount, within 28 days of the date of this determination.

Costs

[103] Costs will be dealt with by an exchange of cost memoranda after the Authority has issued its penalties determination.

Rachel Larmer
Member of the Employment Relations Authority