

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2020] NZERA 386
3092892

BETWEEN	A LABOUR INSPECTOR OF (MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT) Applicant
AND	METROMART LIMITED First Respondent
AND	GROCERY GUYS LIMITED Second Respondent
AND	JW&JG LIMITED Third Respondent
AND	ZESTO LIMITED Fourth Respondent
AND	JAMES STEPHEN GODINET Fifth Respondent

Member of Authority: Helen Doyle

Representatives: Claire English, counsel for the Applicant
Eleanor Mishra, counsel for the Respondents

Information Received: 17 September 2020 Joint Memorandum of Counsel

Date of Determination: 29 September 2020

CONSENT DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] In a Joint Memorandum of Counsel dated 17 September 2020 the Authority was advised that the parties have reached agreement on a number of matters and have requested a consent order from the Authority.

[2] The five respondents being Metromart Limited, Grocery Guys Limited, JW&JG Limited, Zesto Limited and Mr James Godinet accept that they committed breaches of employment standards, in that premiums were sought and/or received from five named employees, being:

- (a) Mr Sahil Tack;
- (b) Mr Jerin Frances;
- (c) Mr Larrie Kris Morales;
- (d) Mr Roohi Sharma; and
- (e) Mr Sukwinder Singh Grewal (also known as Sharry Singh)

[3] The respondents accept that this was a breach of the Wages Protection Act 1983.

[4] The fifth respondent Mr Godinet accepts that as the owner/operator of the businesses, he was a person involved in a breach.

[5] The premiums received by the respondents, as identified by the Labour Inspector, have now been repaid to the five named employees.

[6] The respondents have changed their business systems and practices to no longer require business costs be paid by employees after becoming aware that this practice did not meet minimum employment standards.

[7] The Labour Inspector requests that penalties totalling \$3,000 be awarded and that \$500 be paid to each of the affected employees and \$500 to the Crown account.

[8] The Authority has considered whether this is an appropriate penalty award. In doing so it has had regard to the statement of problem and statement in reply. It has also had regard to the matters in s 133A of the Employment Relations Act 2000 and clarified some issues with the representatives. The financial circumstances of the respondents whose businesses

have been particularly negatively affected by the COVID-19 restrictions have been weighed together with the fact that there has been full repayment of arrears and changes to business practices. The Authority is satisfied that in all the circumstances the penalty requested by the Labour Inspector is an appropriate award.

[9] As agreed by the parties, the financial circumstances of the respondents are such that the penalties will be payable by instalments in 8 equal instalments of \$375 per week each over two months.

[10] To the extent that the employer companies are unable to pay the monies awarded to the employees, Mr Godinet accepts that he will be liable to the extent of any default in payment, as required by s 142Y of the Employment Relations Act 2000.

[11] There are no issues as to costs.

[12] Orders are made accordingly.

Helen Doyle
Member of the Employment Relations Authority