

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

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

[2023] NZERA 146

3158561

BETWEEN A LABOUR INSPECTOR OF
THE MINISTRY OF
BUSINESS, INNOVATION
AND EMPLOYMENT
Applicant

AND FLAVOUR GREENLANE
LIMITED
First Respondent

AND FLAVOUR LIMITED
Second Respondent

AND YULIANA YULIANA
Third Respondent

Member of Authority: Nicola Craig

Representatives: Matthew Hall, counsel for the applicant
Simon Greening and Kylie Hudson, counsel for the
respondents

Submissions and other 17 and 23 March 2023 from the applicant
information received: 17 March 2023 from the respondents

Date of determination: 24 March 2023

THIRD DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] A Labour Inspector of the Ministry of Business, Innovation and Employment, Emilie Woodd, commenced proceedings against Favour Greenlane Limited, Flavour Limited and Yuliana Yuliana alleging breaches of minimum entitlements and standards.

[2] This determination deals with two issues which have arisen late in the proceeding.

The Authority's process

[3] The parties were able to reach a partial settlement in relation to arrears and breaches of minimum standards. An agreed statement of facts was provided to the Authority. A consent determination was issued incorporating facts agreed between the parties, arrears findings based on those agreed facts and orders requiring payment of arrears.¹

[4] The Authority issued a second determination about penalties.² In that determination the parties were encouraged to resolve the question of costs between themselves. They have been able to reach agreement and now jointly seek to have their agreement recorded in a consent determination.

[5] Ms Yuliana also seeks an order that she be able to pay the penalty imposed on her by instalments.

[6] As permitted by s 174E of the Employment Relations Act 2000 (the Act) this determination has not recorded everything received from the parties but has stated findings of fact and law, expressed conclusions on issues necessary to dispose of the matter and specified orders made as a result.

Instalments

[7] I deal with the instalment question first. The Authority is able to order payments of penalties by instalments if the financial position of the person paying the penalty requires it.³

[8] The Labour Inspector does not oppose the proposed payment plan for Ms Yuliana.

[9] For the earlier determinations and in support of her current application Ms Yuliana provided information and documents about her income and wider financial position. Her situation requires the payment of the penalty by instalments.

¹ *Labour Inspector v Flavour Greenlane Limited, Flavour Limited and Yuliana Yuliana* [2022] NZERA 597.

² *Labour Inspector v Flavour Greenlane Limited, Flavour Limited and Yuliana Yuliana* [2023] NZERA 100.

³ The Act, s 135(4A).

[10] The order in paragraph 64(iii) of the second determination is varied to require the penalty of \$9,000 imposed on Yuliana Yuliana to be paid by her in nine equal monthly instalments of \$1,000 by the 28th day of each month, commencing in March 2023. The Crown remains obliged to transfer \$2,250 of the total penalty received to worker M.

Costs

[11] As a contribution to costs, by consent I order that Flavour Greenlane Limited, Flavour Limited and Yuliana Yuliana are jointly and severally liable to pay \$1,500 to the Labour Inspector, for payment to the Crown account, by 20 April 2023.

Nicola Craig

Member of the Employment Relations Authority