

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2024] NZERA 394
3177189

BETWEEN XI (ROBERT) CHEN
Applicant

AND BREAD OF LIFE CHRISTIAN
CHURCH IN AUCKLAND
Respondent

Member of Authority: Rachel Larmer

Representatives: Simon Greening and Kylie Hudson, counsel for the
Applicant
Garry Pollak, counsel for the Opposing Trustees of the
Respondent Trust Board
Jie Dan Li and Yang Liu, Supporting Trustees

Investigation: On the papers

Information received: 28 May 2024 from the Opposing Trustees
6 June 2024 from the Applicant
6 June 2024 from two of the Supporting Trustees
3 July 2024 from the Applicant

Date of Determination: 3 July 2024

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

The parties

[1] The applicant, Mr Xi Chen, is one of six trustees of the respondent, Bread of Life Christian Church in Auckland, which is a registered charity.

[2] Jie Dan Li and Yang Liu are also trustees and they both support Mr Chen. Together Mr Chen, Mr Li and Ms Liu are referred to as “the supporting trustees”.

[3] Julia Buhagiar, Jianan Zhang and Xin (Connie) Huang all oppose Mr Chen and his various employment claims. Together they are referred to as “the opposing trustees”.

Previous determinations

- [4] The Authority issued a substantive determination in which Mr Chen was: ¹
- (a) Permanently reinstated from 5 April 2024; and
 - (b) Awarded lost remuneration from the date of his unjustified dismissal on 2 April 2022 to the date of the determination, being 5 April 2024.

[5] The opposing trustees dismissed Mr Chen for the second time on 10 April 2024, five days after the Authority permanently reinstated him. The decision to dismiss Mr Chen for a second time was opposed by the supporting trustees.

[6] Mr Chen's second unjustified dismissal claim and second interim reinstatement application were removed to the Employment Court by the Authority on 24 May 2024.²

This determination

- [7] Mr Chen has asked the Authority to determine:
- (a) The amount of his outstanding lost remuneration claim, being what he was still owed as a result of his first unjustified dismissal, less what he has already been paid; and
 - (b) His wage arrears for the period 6 to 10 April 2024, being the period from his permanent reinstatement to his second dismissal.

[8] Mr Chen, the opposing and the supporting trustees all agreed on the amount Mr Chen was owed under each of the above headings, so they have provided the Authority with the figures used in this determination.

The Authority's investigation

[9] By agreement, this matter was determined 'on the papers'.

[10] Mr Chen, the two supporting trustees and the three opposing trustees all lodged information with the Authority before this determination was issued.

¹ *Chen v Bread of Life Christian Church in Auckland* [2024] NZERA 198 at [122].

² *Chen v Bread of Life Christian Church in Auckland & Ors* [2024] NZERA 310.

Orders

[11] Within 28 days of the date of this determination, the respondent is ordered to pay Mr Chen:

- (a) \$105,277.62, being the currently outstanding amount of lost remuneration he is still owed for the period 1 April 2022 to 5 April 2024.³ This amount reflects the partial lost remuneration payments Mr Chen has received to date;
- (b) \$749.84 wage arrears for the period 6 to 10 April 2024;
- (c) \$59.99 holiday pay on his wage arrears for the period 6 to 10 April 2024;
- (d) Interest on the total amounts set out above, with interest to run from 1 April 2022 until he has been paid in full. Interest is to be calculated using the Civil Debt Calculator on the Ministry of Justice website.

Costs

[12] By agreement, costs on this determination lie where they fall.

Rachel Larmer
Member of the Employment Relations Authority

³ This amount did not include holiday pay, which Mr Chen said he was not seeking on this award of lost remuneration.