IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH

I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE

[2024] NZERA 414
3229459

BETWEEN	DANIEL PARONNAUD Applicant
AND	PLATINUM CONSTRUCTION LIMITED First Respondent
AND	HEAVENLY JOY COOPER Second Respondent

Member of Authority:	Lucia Vincent
Representatives:	Applicant in person Nick McKessar for the First and Second Respondents
Investigation Meeting:	11 April 2024 in Christchurch
Submissions Received:	11 April 2024 from the Applicant 11 April 2024 from the Respondent
Determination:	11 July 2024

DETERMINATION OF THE AUTHORITY

What is the Employment Relationship Problem?

[1] Mr Paronnaud claims Platinum Construction Limited (**Platinum**) unjustifiably dismissed him when it made his role redundant without carrying out any process. He also claims Platinum failed to give him his contractual notice period and made unlawful deductions to his pay including deducting Platinum's employer contributions towards KiwiSaver. He alleges Ms Cooper is a person involved in breaching employment standards, warranting personal liability.

[2] Platinum and Ms Cooper refute the allegations. Platinum says a deduction claim was made out of time. It relies on a deductions clause in the contract to say it lawfully deducted for damage done by Mr Paronnaud that he agreed to pay for, regarding deduction claims within time. It relies on what it says is a valid total remuneration clause allowing its approach to KiwiSaver contributions.

How did the Authority investigate? [1]

[3] The parties provided information and documents supporting their claims. I received statements of evidence from Mr Paronnaud and Ms Cooper. Both witnesses answered questions under oath or affirmation. Parties provided submissions on the day.

What were the issues?

[4] I investigated the following issues:

(a) Did Platinum unjustifiably dismiss Mr Paronnaud?

(b) Alternatively, did Platinum unjustifiably disadvantage Mr Paronnaud?

(c) Did Platinum give Mr Paronnaud the appropriate length of notice?

(d) If Mr Paronnaud is successful in his personal grievance, what (if any) remedies should I award him?

(e) Can Platinum rely on a total remuneration clause capturing compulsory employer contributions?

(f) Did Platinum unlawfully deduct any money for Mr Paronnaud's pay?

(g) Was Ms Cooper a person involved as a director of Platinum, and someone who had knowledge of the essential facts establishing breaches by Platinum of any employment standards?[2]

[5] I record that in a memorandum directed by the Authority to clarify the issues for the investigation meeting, Mr Paronnaud did not pursue penalties.

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[1] As permitted by s 174E of the Employment Relations Act 2000 (**Act**) this determination has stated findings of fact and law, expressed conclusions on issues necessary to dispose of the matter and specified orders made. It has not recorded all evidence and submissions received.

[2] In terms of section 142W of the Act.

Did Platinum unjustifiably dismiss Mr Paronnaud?

What happened?

[6] Platinum summarised the staffing situation over the years it employed Mr Paronnaud as a builder, right through to when he was its sole remaining employee.

[7] When Mr Paronnaud started in 2015, Ms Cooper's late husband, Mr Cooper, managed the business. Platinum employed Mr Paronnaud along with two qualified builders and two apprentices. In 2016 this continued with the addition of some casual workers. In 2017 Platinum employed more full-time builders and another apprentice. In 2018 and 2019 these numbers increased. Sadly, Mr Cooper passed away in 2019.

[8] After the passing of Mr Cooper, workflow and staff numbers gradually reduced. By the end of 2021, Platinum employed only Mr Paronnaud. This continued throughout 2022 until early 2023 when Mr Paronnaud was made redundant.

[9] Ms Cooper in her statement of evidence described the decline in Platinum's work too. She says she inherited management of the company suddenly. As someone who held an administrative role, she did not have the necessary networks to develop and maintain a pipeline of work for a construction company. A natural downturn in the type of work Platinum typically undertook suited Ms Cooper as it made it more manageable for her to run and oversee the business. Ms Cooper recalled regular discussions with Mr Paronnaud about how to increase work opportunities and the difficulties she had faced finding work for Platinum. Ms Cooper acknowledged she struggled to address an obvious need to make changes in the business because of its connection to her late husband.

[10] Mr Paronnaud accepted there was no future work at the time Platinum made his role redundant. However, he was critical of Ms Cooper's attempts to secure work and her reliance on him to do so when he was employed as a builder (not a manager), and paid for building (not growing the business, which should attract a higher rate of pay).

[11] Platinum accepted the process it followed when making Mr Paronnaud redundant was far from perfect. Ms Cooper described discussions she had with Mr Paronnaud about a lack of work. She said (and I accept) it was obvious there was

not enough work to sustain a full-time building position. However, that was not enough when proposing to make a role redundant. Ultimately, Platinum decided to make Mr Paronnaud's role redundant without consultation, and that was unfair.

[12] Ms Cooper gave Mr Paronnaud the following letter:

> 20th of February 2023
>
> Daniel Paronnaud,
>
> Notice of Termination of Employment
>
> Daniel, I spoke with you, in person on Monday 13/02/2023 then again on Friday 17/02/2023, enquiring as to whether you were aware or able to secure future work for Platinum Construction.
>
> You advised you were not aware of any future work for Platinum Construction.
>
> As you know we have no current work booked for the future. We lost money on the Wellington contracts and the business is running at a loss.
>
> Under clause 23.4 of your Individual Employment agreement, we give you one week's notice of termination of your employment, from today 20th of Feb 2023.
>
> I would like to meet with you to
> - Discuss any aspects of this termination you require.
> - To arrange the return of any company items
> - Discuss the damage to the company van and your assistance with any claim.
>
> Please advise if you would like to bring a support person or someone to represent you. On completion of the above, I will pay the balance of your notice without requiring you to work the balance of the week's notice.
>
> I will provide you with a written reference of your employment with Platinum Construction.
>
> Daniel, I appreciate your work for Platinum Construction over the last 7 years and over half of your time with Jesse. I wish you all the best for your future.
>
> Sincerely,
> Heavenly Cooper
> Platinum Construction Ltd

[13] Ms Cooper also sent an email to Mr Paronnaud with the subject line "Notice of Termination" on 20 February 2023 saying:

> Hi Dan,
>
> This email is to notify you of the termination of your employment with Platinum Construction. While it was a tough decision on my part, I had to take this step because we have no future work for Platinum Construction.
>
> I appreciate all the work you have done for Platinum over the years.
>
> Kind regards
> Heavenly Cooper
> Director

[14] Clause 23 of the individual employment agreement (**Agreement**)[3] said in relation to redundancy:

> 23.5 If the Employee's position becomes superfluous to the Employer's needs, then this Agreement may be terminated by reason of redundancy.
>
> 23.6 In the event of redundancy four weeks notice of redundancy will be given. The Employer may pay the Employee up to four weeks in lieu of notice. The parties acknowledge that there will be no redundancy compensation payable.

Findings

[15] The letter dated 20 February 2023 communicates the decision by Platinum to terminate Mr Paronnaud's employment with one week's notice because there was no future work, and the business was losing money. Although Ms Cooper discussed the lack of future work prospects with Mr Paronnaud in person on at least two occasions in the week prior, she did not discuss the possibility of redundancy with him before making that decision. Even if it was obvious to Platinum and potentially Mr Paronnaud that there was insufficient work to sustain a full-time building position long term, it could not be left to Mr Paronnaud as an employee to assume an event as significant as redundancy was about to happen. It should not be left to chance that he would know he should give feedback on that possibility before it had been expressly raised with him.

[3] Signed by Mr Paronnaud on 19 November 2015.

[16] The duty of good faith required Platinum to provide Mr Paronnaud with information relevant to his proposed redundancy, and an opportunity to comment on that information, before it made its decision. Platinum did not consult Mr Paronnaud and it should have. Platinum breached its good faith obligations under section 4(1A)(c) of the Act.

[17] Section 103A of the Act required Platinum to act as a fair and reasonable employer could in all the circumstances at the time it dismissed Mr Paronnaud. This required Platinum to meet the minimum requirements of process to sufficiently investigate, raise concerns, give a reasonable opportunity for a response and genuinely consider those responses, before making a decision to dismiss Mr Paronnaud. Consulting in good faith about a restructuring proposal before making a decision would have gone a long way to meeting those minimum requirements. I do not accept discussing a lack of work in the week or so prior, nor an awareness of reduced workload over a longer period, covers consultation obligations. Failing to consult was more than a minor procedural flaw and resulted in Mr Paronnaud being treated unfairly, even considering the limited resources available to Platinum.

[18] Platinum unjustifiably dismissed Mr Paronnaud who has a personal grievance in terms of section 103(1)(a) of the Act.

Did Platinum unjustifiably disadvantage Mr Paronnaud?

[19] Mr Paronnaud made an unjustified dismissal claim as an alternative to his claim under section 103(1)(b) of the Act for an unjustified disadvantage (for a failure to follow good faith obligations under section 4(1) of the Act and procedural errors leading to his dismissal). Given my findings above, the unjustified dismissal claim has subsumed the unjustified disadvantage claim.

Did Platinum give Mr Paronnaud the appropriate length of notice?

[20] Platinum gave Mr Paronnaud one week's notice of termination of his employment for redundancy. Platinum relied on clause 23.4 of the Agreement:

> The Employer may terminate the Employee's employment by giving one weeks notice in writing or paying one week in lieu thereof. Such notice shall not be counted as annual leave.

[21] Platinum claims Mr Paronnaud agreed to a reduced notice period because of his letter dated 1 March 2023 that said: "I am aware of the clause 23.4 of my individual Employment agreement, and i agree not to work that last week."

[22] Every employee is entitled to, as a minimum, their notice period when their employment is terminated for redundancy. For Mr Paronnaud, this was four weeks under clause 23.6 of the Agreement. Mr Paronnaud responded to Ms Cooper's letter saying he had been terminated on one weeks notice, and that she did not require him to work the balance of his notice. I do not accept Mr Paronnaud's awareness of the clause Platinum referred to, and agreement not to work his last week, meant he agreed to forfeiting three weeks of the four weeks Platinum ought to have given him. An employer must comply with minimum notice period requirements for a redundancy. Platinum did not do so.

[23] Mr Paronnaud is entitled to be paid for the balance of the four week notice period Platinum should have paid him for, i.e. payment for a further three weeks as required under clause 23.6 of the Agreement.

As Mr Paronnaud has been successful in his personal grievance, what (if any) remedies should I award him?

[24] Mr Paronnaud has claimed remedies under section 123(1)(b) and (c)(i) of the Act for his personal grievance. He claims three months wages and compensation in the middle band.

[25] Mr Paronnaud says he felt furious and devastated about being dismissed without process. He said losing his job came out of the blue with no warning and was a devastating blow. The uncertainty of being without an income and the stability of a job compounded his distress. His dismissal had a profound impact on his sense of security and self-worth.

[26] I accept Mr Paronnaud felt angry and upset about being made redundant without process. However, there was a degree of inevitability as to outcome for what was an

otherwise substantively justified redundancy.[4] It seems unlikely Mr Paronnaud had no inkling that at some point, his job may be in jeopardy given the gradual decline in staff numbers and work at Platinum. In making an award of compensation, I have focussed on Mr Paronnaud's reasonable expectation he would have had the dignity of a process that did not occur and that caused considerable distress to him.

[27] Having considered the extent of the harm Mr Paronnaud suffered, where it sits when compared with other cases, and stepped back and assessed what I consider a fair amount in the circumstances,[5] I am satisfied an award of $15,000 is appropriate.

[28] Mr Paronnaud struggled to find new work after his dismissal. At the investigation meeting his job search continued.

[29] Although Mr Paronnaud has claimed three months lost remuneration, it is likely that had Platinum followed a fair process, the employment relationship would not have lasted much longer. If Platinum had fairly consulted Mr Paronnaud, then he may have had a further few weeks of employment to enable that consultation to occur. Taking these circumstances into account, I consider a further three weeks of remuneration appropriate to award – indicative of the amount of time it would have taken for a proper process to take place.[6]

Can Platinum rely on a total remuneration clause capturing compulsory employer contributions?

[30] Under section 101B of the KiwiSaver Act 2006 (**KiwiSaver Act**) an employer must pay its compulsory contributions on top of an employee's gross salary or wages (**default position**). An exception to the default position applies if the parties to an employment relationship agree contractual terms and conditions that disregard the purpose of the section, unless the terms "do not account for the amount of compulsory contributions the employer is required to pay." Section 101B also says the duty of good faith described in section 4 of the Act, "… always applies when parties to an

[4] Relevant in *Waikato District Health Board v Arichibald* [2017] NZEmpC 132 at [64].
[5] See for example, *GF v Comptroller of the New Zealand Customs Service* [2023] NZEmpC 101 at [153] to [164].
[6] Two weeks was considered appropriate for consultation by a small employer in *Butler v Ohope Chartered Club Inc* [2021] NZEmpC 80 at [32].

employment relationship bargain for terms and conditions relating to compulsory contributions and associated matters."

[31] Mr Paronnaud argues the Agreement did not account for the amount of compulsory contributions, or if it did, that Platinum did not comply with its duty of good faith when bargaining for it, meaning the Agreement reverted to the default position. Mr Paronnaud seeks to recover the amount of the compulsory contributions deducted from his hourly rate for the duration of his employment, as an unlawful deduction under the Wages Protection Act 1983 (**WPA**).

[32] Platinum relies on clause 13 of Schedule 1 of the Agreement (**clause 13**) to support its view it fairly paid its own compulsory contribution out of Mr Paronnaud's hourly rate of $28.00 (later increased to $29):

> **KiwiSaver** You acknowledge and agree that any employer conditions which we make under the KiwiSaver Act 2006 (and its amendments) which are payable from time to time in respect of your salary, will be conducted from, and not paid in addition to, your total remuneration and you agree that your base salary will reduce by the amount of the compulsory employer contribution.

Did Platinum negotiate clause 13 in good faith?

[33] Platinum says it followed a fair process when negotiating clause 13 with Mr Paronnaud, a process that complied with the duty of good faith. Ms Cooper says whenever Platinum hired a new employee, Mr Cooper would always tell her about meeting with the potential new employee and ask her to print a copy of the contract so he could take it to the meeting. She says in Mr Paronnaud's case she recalled Mr Cooper telling her he needed to ensure everything was done correctly because he knew Mr Paronnaud was a former police officer. She remembered printing the contract for Mr Cooper as part of that conversation with Mr Cooper. She says Mr Cooper would never have rushed an employee to sign a contract and would ensure a few days between giving a copy of the contract and asking the employee to return it.

[34] Mr Paronnaud said in his statement of evidence that on his first day of work, Mr Cooper handed him the Agreement to sign which he did promptly then handed it back. He says there was very little discussion about the terms of the Agreement. Despite this,

Mr Paronnaud says he felt unconcerned about clause 13 (which he initialled directly underneath of) because he believed it did not apply to him (because Platinum paid him wages, not a salary). When he noticed his payslip appeared to record amounts different to what he expected, he said he was stunned to find out he had been paying for both his contribution and Platinum's.

[35] When asked at the investigation meeting about what happened before he signed the Agreement, Mr Paronnaud became unsure about when he had received and signed it, noting it was seven years ago and it could have been a few days or even a week or week and a half. The copy provided to the Authority records that Mr Paronnaud signed the Agreement and dated it 19 November 2015. His first payslip records his working hours for the period 23 November to 29 November 2015. In these circumstances, taking into account the typical process as described by Ms Cooper when hiring a new employee, I find it more likely that Mr Paronnaud was given a reasonable opportunity of at least a few days to consider the Agreement and seek independent advice,[7] before being asked to sign and return it (not minutes as Mr Paronnaud initially recalled).

[36] I also find it more likely than not that Mr Paronnaud had an opportunity to have his concerns about KiwiSaver and clause 13 considered and responded to in good faith, even if he only raised an issue after he had signed the Agreement. It was common ground that Mr Paronnaud asked about clause 13 early on in his employment. Mr Paronnaud says he approached Mr Cooper. Ms Cooper recalled Mr Cooper asking her about Mr Paronnaud's enquiry. She assured Mr Cooper the approach was legal. Mr Paronnaud recalls Mr Cooper passing that information onto him. Another employee raising an issue about KiwiSaver not long after. Ms Cooper attended a team meeting to discuss the relevant clause and explain the approach. Mr Paronnaud said nothing. The next time Mr Paronnaud raised the issue was after his employment had ended.

[37] I find Platinum met its obligations to negotiate clause 13 in good faith.

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[7] Clause 33.1.1 of the Agreement recorded an acknowledgement that Platinum had advised Mr Paronnaud to obtain independent legal advice on it and was given a reasonable time to seek that advice before signing.

Did clause 13 "account for" compulsory contributions?

[38] For reasons that follow I have concluded clause 13 accounted for Platinum's compulsory contributions that would be deducted at the amount set by the KiwiSaver Act at any given time. "Account for" does not require a numerical breakdown of what the compulsory employer contribution is when factored into an employee's pay, rather, "simply a statement as to how that figure is arrived at."[8] A clause saying "The employee's remuneration is inclusive of any KiwiSaver compulsory employer contributions" has been considered sufficient where it makes clear the amount of contribution is determined by reference to the statutory rate in the KiwiSaver Act.

[39] Clause 13 unhelpfully refers to salary and not wages.[9] It also incorrectly refers to "employer conditions" that will be deducted from Mr Paronnaud's "total remuneration" (rather than "compulsory contributions" or "employer contributions" to be deducted from Mr Paronnaud's hourly rate). Clause 13 refers twice to salary, the second time saying "… you agree that your base salary will reduce by the amount of the compulsory employer contribution."

[40] Clause 13 is clumsily worded. If I took a strict approach to interpretation, I see merit in Mr Paronnaud's claim clause 13 did not apply to him because of the failure to refer to wages. I take an objective approach to interpreting clause 13 however, asking what a reasonable person would think the words meant, having all the background knowledge reasonably available to the parties at the time of their Agreement.[10]

[41] In context, I consider the intention and meaning were clear: Platinum would deduct the employer's compulsory contributions from Mr Paronnaud's pay. Platinum paid Mr Paronnaud an hourly rate (which was a wage rather than a salary as commonly understood), so the deduction would be made to this. Clause 13 expressly referred to the KiwiSaver Act, making deductions to total remuneration, and reducing (not adding to) base salary for compulsory employer contributions. In context, I find a reasonable

[8] *Faitala v Terranova Homes & Care Limited* [2012] NZEmpC 199 at [47].

[9] Other references in the Agreement do not refer to wages. For example, clause 9 of the Agreement refers to remuneration and that Mr Paronnaud would be paid an hourly rate as set out in the Schedule. In other subclauses the Agreement refers to Mr Paronnaud's pay, hourly rate or remuneration.

[10] Applying the usual contractual interpretation principles endorsed by the Employment court in *E Tū Inc v New Zealand Steel Ltd* [2024] NZEmpC 29 at [16].

person would read clause 13 as applying to wages even though it refers to salary and remuneration.[11]

[42] I am reinforced in my findings given Mr Paronnaud asked about clause 13 once at the start of his employment, then did not raise any issue for some seven years. He acknowledged there was some truth to the statement put to him in cross examination that he would not have raised the KiwiSaver issue if the end of the employment relationship had been smooth.

Did Platinum unlawfully deduct any money from Mr Paronnaud's pay?

[43] Mr Paronnaud claims Platinum unlawfully deducted the following amounts from his pay:

(a) *Insurance excess deduction*: $500 for the insurance excess for alleged damage to a company vehicle in the final pay. The payslip for the pay period ending 19 February 2023 confirms Platinum made an after tax deduction of $500.

(b) *IGU deduction*: $902.92 for the cost of breaking an insulated glass unit. Mr Paronnaud paid this across three pay periods during 2022.

(c) *Shower deduction*: $430 for repairing damage by Mr Paronnaud to a shower liner. Mr Paronnaud paid Platinum by way of deductions to his pay at the rate of $50 per week over the course of nine pay periods during 2018.

(d) *2016 deduction*: $500 for a deduction made in 2016 in relation to a piece of equipment that was damaged.

[44] I accept Platinum's submission that the 2016 deduction is out of time because it occurred more than six years prior to the claim being lodged in the Authority.[12]

[11] Although not determinative, Platinum's representative referred to examples of wages and salary being referred to in legislation such as section 4 of the KiwiSaver Act, section 2 of the WPA and section 86 of the Holidays Act 2003, as well as comments from the Employment Court that wages and salary are different descriptions of essentially the same thing – "remuneration paid to employees for work performed" in *Law v Board of Trustees of Woodford House* [2014] NZEmpC 25 at [70].

[12] Section 142 of the Act and section 11(2) of the WPA.

[45] In relation to the claims within time, Mr Paronnaud says Platinum did not obtain his consent for the deductions made.

[46] Clause 23.7 of the Agreement says:

> The Employee gives to the Employer the authority to deduct from any outstanding wages or holiday pay any amount (i.e. loans, outstanding debts, reimbursements of property lawfully or unlawfully taken or broken, or any other monies owed for whatever reason) owed by the Employee to the Employer at the date of termination of the Employee's employment.

[47] Section 5 of the WPA allows an employer to make deductions from wages payable to a worker with their written consent, including consent in a general deductions clause in an employment agreement. However, an employer must not make a specific deduction in accordance with a general deductions clause in their employment agreement without first consulting the worker. Section 5A says an employee may recover any unlawful deductions under section 11 of the WPA.

[48] Clause 23.7 allows for deductions at the date of termination. Platinum consulted Mr Paronnaud over the insurance excess deduction in correspondence.[13] In circumstances where Mr Paronnaud had accepted responsibility for damage to the company vehicle and indicated he agreed to the deductions, [14] I accept Platinum lawfully relied on clause 23.7 to make that deduction.

[49] I have a different view regarding the IGU deduction and the shower deduction. The Agreement does not include a general deductions clause. This meant Platinum had to obtain specific written consent from Mr Paronnaud for making deductions during the employment relationship. Platinum did not obtain written consent for these deductions. Platinum must repay Mr Paronnaud amounts deducted for the IGU deduction (of $902.92) and shower deduction (of $430), totalling $1,332.92.

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[13] Ms Cooper referred to the damage done in emails dated 6 and 9 March 2023 and sent a draft payslip showing the deduction proposed.

[14] In his letter dated 1 March 2023, Mr Paronnaud said "As I told you, on the phone I did damage the company van and will take responsibility of it." Mr Paronnaud said his final pay was "pretty much what I was expecting" in his email of 8 March 2023.

To what extent is Ms Cooper a person involved for the purposes of s 142W of the Act?

[50] Ms Cooper does not accept she is a person involved for the purposes of s 142W of the Act. If I find she was a person involved in breaches of employment standards and had "knowledge of the essential facts" that established those breaches, then I may grant leave to Mr Paronnaud to recover outstanding money for breaches of employment standards from her under s 142Y.[15]

[51] Section 142W of the Act defines a "person involved" in a breach if the breach is a breach of employment standards such as minimum entitlements and the person has been in any way directly or indirectly knowingly concerned and/or party to the breach. If the breach is by a company, then a person who occupies the position in the entity may be treated as a person involved only if that person is an officer of the entity which includes director.

[52] At all relevant times, Ms Cooper occupied the position of director of Platinum. She confirmed she held responsibility for payroll. She communicated with Mr Cooper about making deductions to Mr Paronnaud's pay for the IGU deduction and shower deduction. She was aware of the Agreement. She authored the letter making the decision to terminate Mr Paronnaud's employment.

[53] Although I accept Ms Cooper relied on what Mr Cooper said in relation to the shower deduction, she did not have written consent for that deduction, nor for the IUG deduction which she communicated with Mr Paronnaud about. I find Ms Cooper was a person involved for the purposes of breaching employment standards in relation to these two deductions.[16]

[54] Section 142Y allows an employee to recover from a person who is not their employer, any wages or other money payable to the employee if there has been a default in payment, the default is due to a breach of employment standards and the person is a

[15] *Labour Inspector v Southern Taxis Ltd* [2021] NZCA 705 at [59].
[16] Section 5 of the Act defines "employment standards" to include the provisions of the WPA.

person involved. I provide leave to Mr Paronnaud to recover the unlawful deductions to the extent that Platinum is unable to pay.

Summary of Orders

[55] I order Platinum to pay Mr Paronnaud:

(a) An amount equivalent to three weeks wages totalling $3,480 (gross) as the balance of the notice period he ought to have received;[17]

(b) Amounts deducted for the IGU deduction (of $902.92) and shower deduction (of $430), totalling $1,332.92.

(c) Compensation of $15,000 under section 123(1)(c)(i) of the Act; and

(d) Remuneration lost of three weeks wages totalling $3,480 (gross) under section 123(1)(b) of the Act.

[56] Mr Paronnaud has claimed interest. He has been deprived of the use of money he ought to have had. I consider it appropriate to award on the amounts in [55](a)(b) and (d) above.[18]

[57] To the extent that Platinum cannot pay the amounts in [55](b) above, I give leave in terms of section 142Y for this to be recovered from Ms Cooper as a person involved.

Costs

[58] Costs are reserved. I encourage the parties to resolve any issue of costs between themselves. If they cannot, Mr Paronnaud may lodge, and then should serve, a memorandum on costs within 28 days of the date of this determination. From the date of service of that memorandum Platinum and Ms Cooper will then have 14 days to lodge any reply memorandum. On request by either party, an extension of time for the parties to continue to negotiate costs between themselves may be granted.

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[17] Mr Paronnaud's final pay slip recorded that he received 40 hours at the hourly rate of $29 for one week "Standard pay" (less appropriate deductions including for KiwiSaver).

[18] Pursuant to Clause 11, Schedule 2 of the Act and can be calculated using an online calculator [Civil debt interest calculator | New Zealand Ministry of Justice]

[59] The parties can anticipate the Authority will determine costs, if asked to do so, on its usual "daily tariff" basis unless circumstances or factors require an adjustment upwards or downwards.[19]

Lucia Vincent
Member of the Employment Relations Authority

[19] For further information about the factors considered in assessing costs see: www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1