

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2025] NZERA 378
3336260

BETWEEN JORDYN JONES
 Applicant

AND INSTALL PRO LIMITED
 First Respondent

AND VIJAY ANIL BHOSALE
 Second Respondent

Member of Authority: Nicola Craig

Representatives: The applicant in person
 No appearance for the respondents

Investigation Meeting: 20 May 2025 by audio-visual link

Submissions (and further At the investigation meeting, 27 May and 23 June 2025
information) received: from the applicant
 26 June 2025 from the respondents

Determination: 1 July 2025

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] Jordyn Jones undertook window furnishing work for Install Pro Limited (Install Pro or the company). She brought an earlier proceeding with Install Pro, which resulted in a determination of the Authority (the 2024 determination).¹

[2] Install Pro was ordered to pay Ms Jones some sums of money. She now says those sums have not been paid to her and seeks a compliance order against the company, along with any additional holiday pay found to be owing, and leave to pursue the

¹ *Jordyn Jones v Install Pro Limited* [2024] NZERA 594.

company's director Vijay Anil Bhosale as a person involved in breaches of employment standards.

[3] Install Pro and Mr Bhosale have not had substantial involvement in this matter although Mr Bhosale indicated at one point early on that he saw the matter as pretty much settled. Ms Jones does not agree, saying that she has not been paid.

The Authority's investigation

[4] Ms Jones began this proceeding with Install Pro as the sole respondent. Initial contact was made with Mr Bhosale who confirmed his email address as the right one to serve the statement of problem on. The statement of problem was sent to that email address but no statement in reply was lodged.

[5] A case management conference was held. There was no appearance for the company despite an attempt to contact Mr Bhosale by phone.

[6] Ms Jones lodged an amended statement of problem adding Mr Bhosale as second respondent. Despite this being sent to the email address Mr Bhosale acknowledged as his, no statement in reply was received from him. A follow up call to Mr Bhosale had him acknowledging that his statement in reply was due.

[7] The Authority proposed that the matter be dealt with by way of an investigation meeting held on audio-visual link. No objection was received and a notice of the investigation meeting was sent to the email address for Install Pro and Mr Bhosale.

[8] The investigation meeting was held by audio-visual link on 20 May 2025. There was no appearance for the company or Mr Bhosale, despite a call being made to his number. I am satisfied that Install Pro and Mr Bhosale had proper notice of the claims against them and the investigation meeting but chose not to participate. Ms Jones attended and gave evidence under affirmation. As requested by the Authority she provided additional documentation.

[9] Later a question arose about Mr Bhosale's involvement in the Install Pro business and he responded by email providing information to the Authority.

Issues

[10] The issues for investigation are:

- Has Install Pro not complied with the 2024 determination and if so, should a compliance order be issued?
- Does Install Pro owe Ms Jones further holiday pay?
- Were there breaches of employment standards and if so, was Mr Bhosale a person involved and should leave be granted to pursue sums outstanding from him in the event Install Pro is unable to pay?

Compliance order made

[11] The 2024 determination was issued on 7 October 2024. In it Install Pro was ordered to pay Ms Jones the sums of:

- \$9,160.35 net being the amount outstanding for her final pay
- \$628.60 being interest
- \$71.55 being reimbursement of the Authority's filing fee.²

[12] In that determination the Authority found that the remaining portion of the final pay was already owing. Over eight months have elapsed since that determination was issued and Ms Jones confirms that no payments have been received since then. Install Pro has had more than a reasonable time to make payment of all the amounts ordered. There is no indication before the Authority of any genuine attempt being made to comply with the 2024 determination or of any intention to do so in the future.

[13] In those circumstances I exercise my discretion under s 137(1)(b) of the Employment Relations Act 2000 (the Act) to order compliance with the orders for payment in the 2024 determination.

Additional holiday pay entitlement not established

[14] In the 2024 determination it was noted that Ms Jones did not think that the holiday pay component on her final pay slip was correct, as she understood that accrued annual leave was transferred from Kiwi Installs Limited (Kiwi Installs) to Install Pro when her employment changed.³ Kiwi Installs was owned and directed by Mr Bhosale, although it is now no longer on the Companies Register. Ms Jones was given time to see if there was documentation to support her view that further holiday pay may be

² Above at n 1, at [30].

³ Above at n 1, at [20].

owing and did not immediately supply anything, with the Authority proceeding to determine the matter on the basis of money owing under the final pay as it was likely Install Pro may be removed from the Companies Register.

[15] As it turns out Install Pro is still on the Companies Register and Ms Jones now asks the Authority to look at this holiday pay question in light of additional documents. She has now supplied a wider span of payslips from her employment with Kiwi Installs and Install Pro, along with a text from Mr Bhosale about her leave entitlement. The payslips are in a typical Xero format.

[16] Ms Jones is uncertain what holiday pay, if any, is owing. Her sense that there might be something unpaid is primarily based on accrued annual leave not always being recorded on her pay slips. This was what led her to query Mr Bhosale and him texting her a leave figure.

[17] Ms Jones started work with Kiwi Installs from its incorporation, which was on 9 March 2022. She recalls working greater than 40 hours a week on average for Kiwi Installs. She started work for Install Pro in April 2023 and continued until finishing on 18 August 2023.

[18] When she was moved from Kiwi Installs to Install Pro Ms Jones says Mr Bhosale told her that her leave entitlement was to carry over to the new company. She accepted that. There was no payout of holiday pay at the time of the changeover.

[19] Having examined the payslips I track leave taken and accrued leave amounts, along with Ms Jones' oral evidence:

- On 18 December 2022 Ms Jones had 72 hours of annual leave with Kiwi Installs as per her payslip.
- In December 2022 and January 2023 according to slips, she took 10 days of annual leave over the Christmas and New Year period, with her recalling the business was closed. This appears relatively consistent with her remembering being off work from a few days before Christmas until into the New Year. She was paid for the public holidays. Ms Jones came out of the holidays with a leave balance of 10 hours.

- In the week of Anzac Day 2023 she took a day's annual leave, taking her balance down from 50 hours to 42 hours. This is in her last Kiwi Installs slip, which shows no sign of the annual leave balance being paid out. Her first Install Pro slip at the start of May 2023 shows a zero leave balance with subsequent ones showing leave accruing upwards from zero.
- In a 23 June 2023 text Mr Bhosale told Ms Jones she had 57 hours of leave. This is approximately the amount owing from Kiwi Installs, added to what has been accrued since she started with Install Pro.
- When the 57 hours is added to her leave entitlement for the remaining approximately seven weeks worked, the total equates to the about 82 hours of holiday pay recorded on her final payslip in August 2023 but not actually paid.

[20] This suggests all Ms Jones' outstanding annual leave from Kiwi Installs and Install Pro was recorded in her final payslip as to be paid out.

[21] I undertook a cross check. The amounts showing as paid out for annual leave Ms Jones took during her employment, along with the holiday pay in the final pay, are equivalent to 8% on the total amounts of pay from Kiwi Installs and Install Pro.

[22] I conclude there is no additional annual leave outstanding.

Leave granted to recover from Mr Bhosale

[23] Under sections 142W and Y of the Act people involved in breaches of employment standards may be held liable if there is default by the employer in paying wages and other money. Prior leave of the Authority is required for recovery against a person involved.⁴

[24] The phrase "employment standards" is defined in section 5 of the Act, as including minimum entitlements and payment for those entitlements under the Holidays Act 2003 and the provisions of the Wages Protection Act 1983. Here the amount the 2024 determination orders to be paid includes:

⁴ The Act, s 142Y(2)(a).

- outstanding holiday pay which is a minimum entitlement under the Holidays Act, sections 16 and 23 to 25
- wages due under the Wages Protection Act, section 4.

[25] I conclude there have been breaches of employment standards by Install Pro.

[26] Under s 142W(2) of the Act where the person in breach is a company, a person who occupies a position in the entity may be treated as a person involved in a breach only if that person is an officer of the entity. Directors are specifically defined as officers.⁵ Despite Ms Jones' experience that Mr Bhosale was in charge of Install Pro, Companies Office records show another person being director and shareholder of Install Pro from March to November 2023.

[27] However, officers are also defined in s 142W(2) to include:

- (e) any other person occupying a position in the entity if the person is in a position to exercise significant influence over the management or administration of the entity.

[28] Ms Jones described Mr Bhosale's role in the company – this included him being the person who decided what wages were to be paid and creating the payslips. By email to the Authority after the investigation meeting, Mr Bhosale confirmed that he was the person “in charge of pay and other related matters”. There was a brief period from August to September 2023 when the company was in receivership but on the evidence the company continued after that to the present day with Mr Bhosale in charge.

[29] I conclude that Mr Bhosale occupied a position in Install Pro at the relevant time to exercise significant influence over the company paying Ms Jones her final pay. Mr Bhosale had knowledge of the essential facts that establish the employer's contravention.⁶

[30] Having established that there are breaches of employment standards and Mr Bhosale was a person involved in those breaches, I grant leave for Ms Jones to recover money from Mr Bhosale if Install Pro is unable to pay the amounts outstanding to her.

⁵ The Act, s 142W(3)(a).

⁶ *Labour Inspector v Southern Taxis Ltd* [2021] NZCA 705.

Costs

[31] Ms Jones succeeds in obtaining a compliance order and leave to recover money from Mr Bhosale and is thus entitled to reimbursement of the Authority's filing fee.

[32] Given that orders have been made regarding Install Pro and Mr Bhosale, they are jointly and severally liable to pay Ms Jones the Authority's filing fee of \$71.55 for this application.

Orders

[33] Within 21 days of the date of this determination:

- Install Pro Limited is to comply with the Authority's determination *Jordyn Jones v Install Pro Limited* [2024] NZERA 594 by paying Jordyn Jones:
 - \$9,160.35 net being the amount outstanding for her final pay;
 - \$628.60 being interest; and
 - \$71.55 being reimbursement of the Authority's filing fee.⁷
- Leave is granted to pursue Vijay Anil Bhosale as a person involved if Install Pro Limited is unable to pay.
- Install Pro Limited and Vijay Anil Bhosale are jointly and severally liable to pay Ms Jones \$71.55 for the Authority's filing fee on this compliance application.

Nicola Craig
Member of the Employment Relations Authority

⁷ Above at n 1, at [30].