

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

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

[2025] NZERA 494  
3381723

BETWEEN	CHRISTOPHER BILLINGTON First Applicant
AND	TAYLOR MCMULLIEN Second Applicant
AND	HOLIDAY MATHIESON Third Applicant
AND	AMARJIT ENTERPRISES LIMITED T/A WIN-WIN BAR First Respondent
AND	BRADLEY KENNETH WHELLIGAN Second Respondent

Member of Authority:	Rachel Larmer
Representatives:	Applicants in person No appearance by the Respondents
Investigation Meeting:	15 August 2025 in Auckland
Oral Determination:	15 August 2025
Written Record of Oral Determination:	15 August 2025

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**ORAL DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1] Mr Christopher Billington, Mr Taylor McMullien and Ms Holiday Mathieson (the applicants) were employed by the first respondent, Amarjit Enterprises Limited (Amarjit), trading as Win-Win Bar at 212 Ponsonby Road Auckland. The second respondent, Mr Bradley Whelligan, is Amarjit's sole director and shareholder.

[2] The respondents did not participate in the Authority's substantive investigation in April 2025. The Authority issued its substantive determination on 17 April 2025.<sup>1</sup> Mr Billington was found to have been unjustifiably disadvantaged, Mr McMullien was found to have been unjustifiably dismissed, and all three applicants were owed wage arrears and were awarded interest on their wage arrears.

[3] In the substantive determination, the Authority found that:

- (a) Amarjit had engaged in breaches of employment standards, as defined by s 5 of the Employment Relations Act 2000 (the Act); and
- (b) Mr Whelligan was 'a person involved in breaches of employment standards', as defined by s 142W of the Act.

[4] The substantive determination granted the applicants leave under s 142Y of the Act to recover the wage arrears and other money they were owed from Mr Whelligan personally, if Amarjit defaulted on paying them.

[5] After the substantive determination was issued to the parties, the applicants asked the respondents to pay them the money they had been awarded by the Authority. However, no money has been paid to any applicant. Neither have the respondents engaged with any of the applicants regarding payment of the wage arrears and other money they are owed.

[6] The applicants have now sought a compliance order against the respondents to compel them to pay the money they were awarded on 17 April 2025. The respondents have not responded to the applicants compliance order application, or to their demands for payment.

### **The Authority's investigation**

[7] The respondents failed to engage with the Authority and they did not participate in the Authority's investigation. The respondents have not responded to the letters or emails the Authority has sent them.

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<sup>1</sup> *Billington & Ors v Amarjit Enterprises Ltd* [2025] NZERA 223.

[8] The statement of problem (SoP) was served on Amarjit at 1.31pm on 9 June 2025 by track and trace courier, at its registered address for service as recorded on the Companies Register. It was signed for by “Chinku Singh”.

[9] The SoP was served by track and trace courier at 10am on 9 June 2025 on Mr Whelligan, at the address he has recorded on the Companies Register in his capacity as Amarjit’s sole director and shareholder.

[10] The statement in reply (SiR) was due on 23 June 2025, but no SiR was lodged.

[11] Directions of the Authority (DoA) were issued on 25 July 2025. The DoA recorded that if the respondents wanted to defend the application for a compliance order then they needed to seek leave from the Authority to lodge a SiR out of time. The respondents were given until 4 August 2025 to do so. However, no leave application was made.

[12] The DoA directed Mr Whelligan to lodge an affidavit by 7 August 2025 that set out the respondents’ financial position and ability to pay the applicants the wage arrears and other money they had been awarded. No affidavit has been lodged, so the respondents’ financial position remains unknown.

[13] The DoA recorded that the compliance order application had been set down for an in-person investigation meeting (IM) on 15 August 2025. The respondents were informed that their non-engagement with the Authority would not stop its investigation of the applicants’ claims, as the compliance order application would be determined based on the information available to the Authority as at the date of the investigation meeting.

[14] The Authority made an order for substituted service, as recorded in the DoA, that provided that service of these proceedings on Amarjit at its registered address for service would also amount to personal service on Mr Whelligan, as he was the company’s sole director and shareholder.

[15] A second copy of the SoP, the DoA and the Notice of IM (NoIM) were served by track and trace courier at 1.35pm on 30 July 2025 on the respondents at Amarjit’s registered address for service at. These documents were signed for by “Chinku Singh.”

[16] A second copy of the SoP, the DoA and NoIM was also sent to Mr Whelligan, at the address he has recorded for himself (as Amarjit's sole director and shareholder) on the Company's Register. These documents were delivered to Mr Whelligan's home address by track and trace courier at 11:21am on 29 July 2025.

[17] The respondents therefore had notice of this compliance order application and of the IM date, but have not participated in the Authority's investigation.

[18] The applicants attended the investigation meeting today. The scheduled start time of the investigation meeting was delayed by 30 minutes to give the respondents additional time to appear. However, neither response appeared at the investigation meeting. Nor had the respondents sought an adjournment of it.

[19] The applicants all gave evidence under affirmation. Each application confirmed under affirmation that they had (at least twice) demanded payment of the money they had been awarded by the Authority, but that the respondents had not replied to them. The applicants all confirmed under affirmation that they had still not been paid any of the money they were owed and that the respondents had not communicated with any of them.

[20] The applicants told the Authority that Win-Win bar on Ponsonby Road (which is owned/operated by the respondents) where the applicants worked was still trading and regularly appeared to be busy.

[21] An oral determination was issued by the Authority at the conclusion of the applicants' evidence.

### **The issues**

[22] The following issues are to be determined:

- (a) Has the Authority's substantive determination been complied with?
- (b) What are the applicants owed?
- (c) Can the applicants recover the wage arrears and other money they are owed from Mr Whelligan personally?
- (d) Should a compliance order be made against one or both respondents?
- (e) What costs and disbursements should be awarded?

### **Has the substantive determination been complied with?**

[23] The Authority's substantive determination has not been complied with.

### **What are the applicants owed?**

[24] The applicants' affirmed and uncontested evidence, that none of them have been paid anything by the respondents, was accepted.

[25] As per paragraph [85] of the substantive determination, the applicants were awarded the following amounts:<sup>2</sup>

- (a) Christopher Billington \$7,189.42, consisting of:
  - (i) \$4,557.49 gross wage arrears;
  - (ii) \$60.38 interest on the wage arrears from 15 January 2025 to the 17 April 2025 (being the date of the substantive determination);
  - (iii) \$2,500.00 distress compensation without deduction under s 123(1)(c)(i) of the Act for his unjustified disadvantage grievance;
  - (iv) \$71.55 to reimburse the filing fee he paid for this matter;
- (b) Taylor McMullien \$10,477.75, consisting of
  - (i) \$4,426.79 gross wage arrears;
  - (ii) \$50.96 as interest on the wage arrears from 12 January 2025 to 17 April 2025; and
  - (iii) \$6,000 without deduction under s 123(1)(c)(i) of the Act as distress compensation for his constructive dismissal;
- (c) Holiday Mathieson \$362.56 gross wage arrears, consisting of
  - (i) \$356.78 gross wage arrears; and
  - (ii) \$5.78 interest on the wage arrears from 27 December 2024 to 17 April 2025.

[26] As per paragraphs [86] and [87] of the substantive determination, the applicants were awarded ongoing interest on any wage arrears and other money that was

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<sup>2</sup> *Billington*, above n1.

outstanding from 18 April 2025 (the day after the substantive determination was issued) until they had been paid in full.<sup>3</sup>

[27] Interest from 18 April (the day after the substantive determination was issued) to 15 August 2025 (the date this compliance order determination was issued) for each applicant amounts to:

- (a) \$107.01 for Mr Billington;
- (b) \$155.95 for Mr McMullien;
- (c) \$5.40 for Ms Mathieson.

[28] In addition to the quantified amounts of interest the applicants have been awarded in the substantive determination and in this compliance order determination, ongoing interest has been awarded to the applicants which will continue to accrue to each applicant until they have all been paid in full.

[29] In accordance with clause 14 of Schedule 3 of the Act, the respondents are ordered to continue to pay accruing interest to each applicant on the outstanding amounts they are owed from 16 August 2025 onwards until the full amount they are owed has been paid.

[30] Interest is to be calculated using the Civil Debt Calculator on the Ministry of Justice website.

**Can the applicants recover the wage arrears and other money they are owed from Mr Whelligan personally?**

[31] As per paragraphs [64] and [84] of the Authority's substantive determination, the applicants were granted leave to recover from Mr Whelligan personally any wage arrears and other money Amarjit defaulted on paying them.<sup>4</sup>

[32] Amarjit has defaulted paying the applicants any of the money they were awarded by the Authority on 17 April 2025. Amarjit's failure to pay the applicants their wages backdated to December 2024 and early January 2025, so there was sufficient evidence to establish that Amarjit has defaulted on paying the applicants, so they can

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<sup>3</sup> *Billington*, above n1.

<sup>4</sup> *Supra*.

now pursue Mr Whelligan personally to pay them what they have been awarded by the Authority.

**Should a compliance order be made against one or both respondents?**

[33] The Authority finds that:

- (a) The respondents were served with a copy of the substantive determination;<sup>5</sup>
- (b) The applicants have demanded Amarjit pay them, but no payments have been made;
- (c) The respondents have not engaged with the applicants about paying them the money they are owed;
- (d) Amarjit has defaulted on paying the applicants the wage arrears and other money they are owed;
- (e) The applicants were previously granted leave to pursue Mr Whelligan personally for money Amarjit defaulted on paying them;
- (f) Mr Whelligan as Amarjit's sole director and shareholder is well placed to either take the necessary steps to ensure Amarjit paid the applicants, or if it is unable to do so then he is required to personally pay the applicants himself;
- (g) The respondents were served with this compliance order application but have not taken any steps to defend it;
- (h) The respondents have had an opportunity to provide affidavit evidence about their ability to pay the applicants before, but have failed to do so;
- (i) The respondents have had a reasonable opportunity to be heard on whether or not a compliance order should be issued;
- (j) The respondents were notified of the investigation meeting today, but failed to attend and did not seek to adjourn it;
- (k) Nothing has been done by the respondents to comply with the Authority's substantive determination; and

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<sup>5</sup> *Billington*, above n1.

- (l) The respondents are unlikely to voluntarily pay the applicants any of the money they are owed.

[34] Accordingly, the applicants have established that the respondents are unlikely to pay them the money they are owed unless a compliance order was issued.

[35] It was therefore appropriate to issue a compliance order against both respondents, because it was unlikely the applicants would be paid any of the money they have been awarded unless the respondents were compelled to pay them.

### **The compliance order**

[36] In accordance with the Authority's power under s 137(2) of the Act, within 28 days of the date of this determination the respondents are jointly and severally ordered to comply with paragraphs [85] to [87] of the Authority's substantive determination dated 17 April 2025, by paying each applicant the wage arrears and other money they have been awarded.

[37] Within 28 days of the date of the written record of this oral determination, the respondents are ordered to comply with paragraphs [85] to [87] of the Authority's substantive determination.<sup>6</sup>

[38] Paragraphs [85] of the substantive determination required Amarjit to pay:

- (a) Christopher Billington - \$7,189.42 gross;
- (b) Taylor McMullien - \$10,477.73 gross;
- (c) Holiday Mathieson - \$362.56 gross.

[39] Paragraphs [86] and [87] of the substantive required Amarjit to pay interest to the applicants, calculated using the Civil Debt Calculator on the Ministry of Justice website, from 18 April 2025 (the day after the substantive determination was issued to the parties) to 15 August 2025, being the date this written record of the oral determination was issued the parties.

[40] The applicants are owed the following interest payments up to the date of this compliance order determination:

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<sup>6</sup> *Billington*, above n1.

- (a) \$107.01 for Mr Billington;
- (b) \$155.95 for Mr McMullien;
- (c) \$5.40 for Ms Mathieson.

[41] Interest continues to run from 16 August 2025 until each applicant has been fully paid all of the wage arrears and other money (including interest and other reimbursements) they are owed.

### **Consequences of breaching this compliance order**

[42] The respondents are put on notice that failure to comply with this compliance order issued by the Authority may result in the applicants applying to the Employment Court for the exercise of the Court's powers under s 140 of the Act.

[43] Under s 140(6) of the Act, the Employment Court has the power to make a range of orders, which could potentially include (but are not limited to):

- (a) Imposing a sentence of imprisonment not exceeding three months;
- (b) Imposing a fine of up to \$40,000; or
- (c) Ordering that a defaulting party's property be sequestered.

### **What costs and disbursements should be awarded?**

[44] The applicants were self-represented, so they did not incur any legal costs. Mr Billington paid the filing fee, so the respondents are ordered to reimburse him \$71.55 for that.

[45] Accordingly, the amount Mr Billington has to be paid within 28 days of the date of this determination has increased to \$7,367.98, consisting of \$7,189.42 from the substantive determination plus interest of \$107.01 from this determination plus \$71.55 to reimburse his filing fee for this matter.

### **Summary of orders**

[46] Within 28 days of the date of this determination, the respondents are ordered to comply with paragraphs [85] to [87] of the Authority's substantive determination by paying the applicants the wage arrears and other money (including interest they have been awarded by the Authority).

[47] Within 28 days of the date of this determination, Mr Whelligan must take the necessary steps (as Amarjit's sole director) to arrange for Amarjit to pay the applicants the amounts they have been awarded in this determination. Namely:

- (a) Mr Billington - \$7,367.98;
- (b) Mr McMullien - \$10,633.68;
- (c) Ms Mathieson - \$362.96.

[48] If Amarjit is unable to pay the applicants all of the money they are owed, then within 28 days of the date of this determination, Mr Whelligan must personally pay each applicant all of the wage arrears and other money (such as interest and disbursements) that Amarjit has defaulted paying them. The amount each applicant is to be paid is set out in paragraph [47] above.

[49] Interest also continues to accrue on the total amount each applicant is owed, until they have been fully paid all of the money they have been awarded by the Authority in its substantive determination and in this compliance order determination.

Rachel Larmer  
Member of the Employment Relations Authority