

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

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

[2025] NZERA 542  
3353544

	BETWEEN	JASPER WONG Applicant
	AND	TBS TRADING LIMITED First Respondent
	AND	HELEN HAN also known as GUIJU HAN Second Respondent
Member of Authority:	Peter Fuiava	
Representatives:	Tim Vogel, advocate for the Applicant Helen Han in person and for the First Respondent	
Investigation Meeting:	On the papers	
Submissions and information received:	Up to, and including, 18 June 2025 from the Applicant No submission from either Respondent	
Determination:	1 September 2025	

---

**DETERMINATION OF THE AUTHORITY**

---

**What is the employment relationship problem?**

[1] This is an application by Jasper Wong for compliance of a determination made in his favour by the Authority (the substantive determination)<sup>1</sup> in which TBS Trading Limited (TBS or the company) was found to have dismissed Mr Wong unjustifiably.<sup>2</sup>

[2] The Authority subsequently ordered TBS to pay Mr Wong \$8,640 gross in lost wages under s 123(1)(b) of the Employment Relations Act 2000 (the Act); \$12,000 without deduction in compensation for hurt and humiliation under s 123(1)(c)(i); \$691.12 gross being the loss of a benefit of holiday pay under s 123(1)(c)(ii) of the Act; a \$300 penalty to the Crown for TBS' failure to provide a written employment

---

<sup>1</sup> *Jasper Wong v TBS Trading Limited* [2024] NZERA 744.

<sup>2</sup> At [28].

agreement; a \$500 penalty for failing to pay annual holiday pay relating to Mr Wong's final pay under s 27(2) of the Holidays Act 2003 (the HA) half of which was to paid to him and the other half to the Crown under s 136 of the Act; and costs of \$2,250 together with reimbursement of the filing fee of \$71.55.

[3] The Authority ordered the above amounts to be paid within 28 days of the substantive determination (13 January 2025). However, nothing of the \$23,902.67 that TBS was ordered to pay Mr Wong has been paid.

### **How has the Authority investigated?**

[4] A case management conference by telephone was held on 16 May 2025 which was attended by Mr Wong's advocate, Mr Vogel, and Ms Han, the sole director and shareholder of TBS. At the time of the teleconference, Ms Han was in China receiving medical treatment but nevertheless agreed with the timetable proposed for her for the filing of written submissions and a statement in reply as Mr Vogel had indicated he would be filing an amended application for compliance. It was also agreed that I could determine the application 'on the papers' having regard to all the information that was before the Authority.

[5] The amended application for compliance was filed on 22 May 2025 but Ms Han did not file a statement in reply. Nor has she filed written submissions in response to Mr Vogel's written submissions which he lodged with the Authority and served on the respondents by email on 18 June 2025. It appears that Ms Han has stopped engaging with this process.

### **Compliance order against TBS**

[6] As of the date of drafting this determination, there is nothing before me that indicates that any of the sums of money ordered by the Authority in its substantive determination have been paid by TBS.

[7] Despite previous demands made by Mr Vogel for payment which include two emails he sent on his client's behalf to Ms Han on 18 December 2024 and 8 January 2025, payment by TBS has not been forthcoming. I find the company to be in breach of its obligation to make payment of the above sums as ordered by the Authority.

Breaches of the Authority's orders or directions are a serious matter. I find Mr Wong successful with his application for a compliance order against TBS.

[8] The Authority orders TBS Trading Limited to comply with its substantive determination by Friday 26 September 2025, by making payment of the following sums:

- (a) lost wages of \$8,640 gross under s 123(1)(b) of the Act;
- (b) compensation of \$12,000 under s 123(1)(c)(i);
- (c) compensation for loss of a benefit of \$691.12 gross under s 123(1)(c)(ii);
- (d) \$300 penalty to the Crown for a breach of s 65 of the Act;
- (e) \$500 penalty of a breach of s 27(2) of the HA half of which is to be paid to Mr Wong and the other half to the Crown; and
- (f) \$2,250 in costs together with reimbursement of the filing fee of \$71.55.

### **Interest**

[9] The Authority has the power under cl 11 sch 2 of the Act to award interest if it thinks fit to do so. This is an appropriate case for the award of interest as Mr Wong has been deprived of the use of \$23,902.67 since this amount fell due on 13 January 2025. TBS Trading Limited is ordered to pay interest on this amount from 14 January 2025 until the date payment is made in full. Interest is to be calculated using the civil debt interest calculator.<sup>3</sup>

### **Compliance order against Helen (Guiju) Han**

[10] In addition to seeking a compliance order against TBS, Mr Wong also seeks a compliance order against Ms Han under s 137(2) of the Act requiring her to make her company comply with the substantive determination. Being the sole director and shareholder of TBS Trading Limited and having actual knowledge of the earlier substantive investigation by the Authority as well as the present application for compliance, I am satisfied that she is responsible for her company's non-compliance and is in a position to do something about it.

---

<sup>3</sup> [www.justice.govt.nz/fines/civil-debt-interest-calculator](http://www.justice.govt.nz/fines/civil-debt-interest-calculator).

[11] Accordingly, pursuant to s 137(2) of the Act, the Authority orders Helen Han also known as Guiju Han to take all necessary steps to ensure that, no later than Friday 26 September 2025, TBS Trading Limited complies with the substantive determination by paying Mr Wong as specified in the above compliance orders.

### **Whether Ms Han is ‘A Person Involved’**

[12] Mr Wong seeks leave pursuant to ss 142W and 142Y of the Act to recover from Ms Han the \$23,902.67 that is owed to him by TBS. The request for leave must be declined because s 142Y does not extend to compensation for non-pecuniary losses such as hurt and humiliation or remedies under s 123 of the Act.<sup>4</sup> Section 142Y is instead specifically tied to breaches of statutory minimum entitlements, such as those under the Minimum Wage Act 1983, the HA, and the Wages Protection Act 1983.

[13] If leave were granted, Ms Han’s liability under s 142Y would be limited to \$250 of the \$23,902.67 that TBS has been ordered to pay to Mr Wong. As it would not be economical for Mr Wong to pursue Ms Han for \$250, the application for leave is declined.

### **Costs**

[14] On behalf of his client, Mr Vogel seeks costs. The Authority has the power under sch 2 cl 15 of the Act to award costs. However, the discretion to order a party to pay costs to another must be exercised on a principled basis. Those principles are well settled and are outlined in the Authority’s Practice Note,<sup>5</sup> and Practice Direction,<sup>6</sup> both of which are publicly available online.

[15] Mr Wong has been put to unnecessary expense in seeking compliance orders against TBS and Ms Han. As the successful party, he is entitled to an award of costs. Be that as it may, it is well understood that costs in the Authority are modest. As far as applications determined on the papers go, the present one has been relatively straight forward which needs to be recognised in the costs-setting exercise.

---

<sup>4</sup> *Tomas v Sanders* [2024] NZERA 538.

<sup>5</sup> [www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1](http://www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1).

<sup>6</sup> [www.era.govt.nz/assets/Uploads/practice-direction-of-the-employment-relations-authority.pdf](http://www.era.govt.nz/assets/Uploads/practice-direction-of-the-employment-relations-authority.pdf).

[16] On balance, the Authority orders TBS Trading Limited to pay Mr Wong costs of \$650 plus the sum of \$71.55 as reimbursement of the filing fee no later than Friday 26 September 2025.

Peter Fuiava  
Member of the Employment Relations Authority