

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

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

[2025] NZERA 624  
3308540

BETWEEN	DONGYAN LIN (AKA CHLOE LIN) Applicant
AND	YOKE INSULATION LIMITED (IN LIQUIDATION) First Respondent
AND	YOOK INSULATION LIMITED Second Respondent
AND	YANFEN WANG Third Respondent

Member of Authority:	Sarah Blick
Representatives:	John Wood, advocate for the applicant First respondent not represented Yanfen Wang for second respondent and in person
Investigation meeting:	30 September 2025 in Auckland
Information and Submissions received:	At the investigation meeting on 30 September 2025 from the applicant
Determination:	3 October 2025

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**PRELIMINARY DETERMINATION OF THE AUTHORITY**

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**Employment relationship problem**

[1] Dongyan Lin (known as Chloe Lin) worked in office administration for one or both of Yoke Insulation Limited (Yoke) and Yook Insulation Limited (Yook). It is common ground between the parties that Yoke was Ms Lin's initial employer from

March 2023. Ms Lin however believes the identity of her employer changed to Yook from about October 2023, until her employment ended in April or May 2024.

[2] Ms Lin is pursuing a personal grievance for unjustified disadvantage on the grounds Yoke and Yook failed to make PAYE deductions from her pay and remit those to Inland Revenue (IR), and that she was further disadvantaged by Yook advising IR that she was a self-employed contractor. She seeks a compensation award if her personal grievance is established.

[3] Ms Lin is also seeking penalties for breaches of employment standards including that her employers did not pay wages when due, a failure to comply with terms of her employment agreement, and for them failing to supply wages and time and holiday and leave records when requested by her.

[4] Claims are also made against Yook's director and shareholder Yanfen Wang on the basis she allegedly aided and abetted breaches of Ms Lin's employment agreement, and that she is a person involved in employment standards, for which penalties are sought.

[5] In March 2025 the Official Assignee (OA) was appointed as Yoke's liquidator. The OA has consented to this proceeding continuing.<sup>1</sup>

[6] This preliminary determination addresses the real nature of the relationship between Ms Lin and the respondent companies because of tax issues arising in relation to her income.

### **The Authority's process**

[7] A witness statement was provided for Ms Lin. Yoke's director and shareholder Qingliang Zhang and Ms Wang provided information in their statements in reply, which were re-lodged by them in lieu of witness statements. The Authority questioned Mr Zhang and Ms Wang under affirmation at the investigation meeting. Having heard from them, the Authority determined to adjourn the substantive matters in favour of issuing this preliminary determination confirming Ms Lin's employment status.

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<sup>1</sup> Pursuant to the Companies Act 1993, section 248(1)(c).

[8] This determination has stated findings of fact and law, expressed conclusions on issues necessary to dispose of the preliminary matter. It has not recorded all evidence and submissions received but all material has been considered.<sup>2</sup>

### **Issues**

[9] The issue for determination is the real nature of the relationship between Ms Lin and the respondent companies.

### **Background**

[10] Ms Lin says she joined Yoke as an employee on 20 March 2023. She was provided with a written employment agreement with Yoke, although she reports not having been given a copy of it. Mr Zhang acknowledges Ms Lin started employment at this time and Yoke was indeed her employer. He confirmed a written employment agreement was provided, but says he is unable to produce a copy of it.

[11] Ms Lin says she was to be paid fortnightly as a fulltime employee for \$25 per hour, and normally worked 40 hours a week. In addition, she says she was to be paid an extra \$100 per month as a gas subsidy, which can be seen from bank transaction records the parties have each provided to the Authority.

[12] Ms Lin says part of her role was to calculate and record her own wages, which Mr Zhang and Ms Wang confirm was the case. Ms Lin says every pay period she recorded the amount payable to her, and the PAYE amount. Ms Lin has provided what she says are records she provided to her employer throughout her employment. They record the number of hours worked per fortnight and a gross “Total earnings” amount. They record “Total Employee Taxes” for each fortnight, and the net pay amount. Although the amounts varied sometimes, more often than not they record total earnings of \$2,000 per fortnight, total employee taxes of \$362.12, and a net pay amount of \$1,637.88.

[13] Both the parties’ bank transaction records mirror the wages and time records Ms Lin has provided, showing she received the net pay amounts identified.

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<sup>2</sup> Employment Relations Act 2000, section 174E.

[14] Ms Lin says after six months of employment she discovered Yoke had never paid any PAYE on her income earnings. She reports raising this, apparently with Ms Wang, and requesting that the relevant taxes be paid, but the issue was not resolved.

[15] Ms Lin says her employer changed its name in around October 2023, from Yoke Insulation Limited to Yook Insulation Limited. She believes the change was prompted by Yoke having tax issues.

[16] Mr Zhang and Ms Wang's evidence is that Yook began paying Ms Lin's wages from 24 October 2023 due to Yoke's cashflow issues. They say Yook did not become Ms Lin's employer, and she continued to be employed by Yoke.

[17] It is common ground Ms Lin did not receive a new written employment agreement from Yook at any time.

[18] Ms Lin reports never receiving a payslip during her employment from either Yoke or Yook.

[19] Ms Lin says she persevered working for another six months before realising Ms Wang firmly refused to fix the tax problem. At that point, Ms Lin chose to resign. Ms Lin says she resigned on 27 April 2024 and asked for her unpaid PAYE to be paid.

[20] Mr Zhang and Ms Wang say they reached a solution or agreement with Ms Lin regarding tax. Ms Lin confirms she signed an authority for an accountancy company to act on her behalf on 16 May 2024, which I understand was also used by the respondent companies. Ms Lin believed this would help her to pay her taxes and the accountant was used. Because she did not know much about taxes, she did not realise there was a problem until she saw on the IR website that she had to prepay taxes for 2025. She reports learning through a friend that what the company was doing was wrong. She believes one or both companies acted to avoid penalties for not paying PAYE on her income, so as to shift the tax burden, and putting her in an embarrassing situation.

[21] Ms Lin has provided a printout of a draft 2024 individual income tax return she has accessed online via IR's website. It records income of \$441.65 total gross income,

with \$65.19 of PAYE deducted. It also records a net amount of \$46,325.00 in self-employed income, and residual income tax calculated at \$7,029.60.

[22] The records show Ms Lin was paid two wage payments in her last month of work for which no PAYE was deducted - \$2,000 on 20 May 2024 and \$1,800 on 28 May 2024. On 28 May 2024 she received \$2,800 as a payout relating to her 14 days of annual holiday entitlement. Ms Lin says her employers hoped she would pay the tax herself.

[23] By June 2024 Ms Lin had engaged her advocate. On 11 June 2024 Ms Lin's advocate raised a personal grievance and requested that Yook resolve wages and PAYE issues. The advocate requested wages and time and holiday and leave records. There is no evidence these were provided.

[24] Yook's bank transaction records show that on 25 June 2024 it paid \$3,013.28 and \$736 to Ms Lin's account in two separate transactions. Ms Lin's advocate acknowledged those payments by email but queried with Ms Wang what they related to. He advised if they related to PAYE amounts that should be remitted to IR, then Ms Lin would return them to Ms Wang. Ms Wang responded on 3 July 2024:<sup>3</sup>

The two payments just the last two payments which as per Chloe's calculation and all parties agreed to pay that by the end of June 2024. Chloe calculated the amount every time and sent to the accountant, then accountant sent to me and I made the payments as per the amounts. **Before she left, she agreed that the income tax \$7029.60 for 2024 will be paid to IRD directly by the company, the rest amounts will be paid to her account.** Thereafter, the payments \$2000 made on 19/05/2024, \$2800 and \$1800 made on 28/05/2024 and these two last payments \$736 and \$3013.28 transfed [sic] to her account including tax. At the end of May 2024, she did asked [sic] the accountant when we can pay off her amounts, so we made these two payments by the end of June as per the previous agreement. But now, if Chloe changed her mind and request us to pay all these amounts to IRD directly, that's ok, then she can re-calculate and please double confirm every amounts and how she would like the payments make.

[25] At the investigation meeting, Mr Zhang acknowledged that after Ms Lin raised her employment relationship problem, a decision was made not to pay the income tax amount of \$7,029.60 to IR as per the parties' earlier agreement. Mr Zhang and Ms Wang confirmed that amount has still not been paid by Yoke or Yook.

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<sup>3</sup> Emphasis added.

[26] The respondents have produced a wage record for the period 15 April 2024 – 26 April 2024 recording the following:

Chloe Lin 15/4/2024-26/04/2024 资己录			
日期	小时数		
4/15/2024	8		
4/16/2024	8		
4/17/2024	8		
4/18/2024	8		
4/19/2024	8		
4/22/2024	8		
4/23/2024	8		
4/24/2024	8		
4/25/2024	8		
4/26/2024	0		
		100油补	
共计:	72	Total Earnings.	\$1,900.00
Annual Leave:			
2023/3/20-2024/3/20	14days	共20天, 圣诞节休假6天	\$2,800
2024/3/21-2024/5/24	46days	46个工作日工资的8%	\$736
PAYE:			
2023/3/21-2024/4/26	\$10,042.88	已补税\$7029.60	\$3,013.28
<b>Total Payment:</b>			<b>\$8,449.28</b>

[27] According to Ms Lin’s wage records, the total amount of PAYE owing during her employment was \$10,042.88, as outlined above. The amount of \$3,013.28 was a PAYE figure paid into Ms Lin’s bank account, and the \$736 gross figure comprised of 8% holiday pay, also paid to her.

[28] On 8 July 2024 Ms Lin’s advocate lodged a statement of problem in the Authority.

[29] On 30 July 2024 Ms Lin’s advocate sent a further email to Ms Wang indicating Ms Lin had a “tax balance” of \$14,410.60 and she would like Yoke to pay it correctly for her. The email further stated that non-payment of PAYE had a significant effect on her as she was not able to secure a bank loan as she had no earnings history. It was said if all matters were not settled the Authority application would proceed.

[30] On 21 March 2025 Yoke was placed into liquidation.

[31] At the investigation meeting Ms Lin advised she continues to have correspondence from IR, and the tax matter remains a huge problem for her. She advised she was given notice that the tax amounts assessed as owing would be deducted from her salary/wages through her current employment.

[32] Ms Lin has shared email correspondence between herself and IR from June to September 2025. In response to Ms Lin's explanation of the situation, an email dated 31 July 2025 from IR advised that although Ms Lin understood tax was being paid on her earnings, that had not occurred and she was required to pay tax on the income earned from her employer. She was advised any dispute about her contract or how she was paid needed to be pursued as a civil matter. IR proposed she apply for a repayment plan.

[33] Upon further advice from Ms Lin that she has an active case with the Authority, IR confirmed its notice to deduct amounts was cancelled as of 16 September 2025. She was advised IR would wait for her to provide information by 14 October 2025 and if it did not hear further from her by then, IR's system may take further action automatically.

### **Ms Lin was an employee**

[34] In determining whether Ms Lin was employed as an employee or engaged as an independent contractor I applied s 6 of the Act which provides:

#### **6 Meaning of employee:**

- (1) In this Act, unless the context otherwise requires, employee –
  - (a) means a person of any age employed by an employer to do any work for hire or reward under a contract of service ...
- (2) In deciding ... whether a person is employed by another person under a contract of service, the court or the Authority (as the case may be) must determine the real nature of the relationship between them.
- (3) For the purposes of subsection (2)... or the Authority-
  - (a) must consider all relevant matters, including any matters that indicate the intention of the persons; and
  - (b) is not to treat as a determining matter any statement by the persons that describes the nature of their relationship.

[35] Having heard from the parties, and considered the evidence, it is clear Ms Lin was an employee while working in Yoke and/or Yook's business(es).

[36] She entered into a written employment agreement with Yoke. There is no evidence of any discussions about her becoming a contractor while her employment was ongoing or that matters had changed once she started being paid by Yook in October 2023. She was paid \$25 per hour, and worked 40 hours most weeks. While she was asked to calculate her wages, this was set out as a PAYE calculation and provided to Yoke and/or Yook to process. She was then paid the net pay with the relevant PAYE deducted until she gave notice of resignation. It was only in relation to

five payments made after Ms Lin gave notice of resignation, that she received the gross payments described above.

[37] There is no suggestion Ms Lin was not integrated into the business or that the respondents did not exercise control over her work, or that other indicia of contractor status existed.

[38] While Ms Lin may have reached a resolution with the respondents regarding being paid gross amounts at the end of her employment, this did not alter the real nature of the relationship between her and Yoke and/or Yook as an employment relationship.

### **Outcome**

[39] The real nature of the relationship between Dongyan Lin (also known as Chloe Lin) and Yoke Insulation Limited and/or Yook Insulation Limited was one of employment between 20 March 2023 to around late April or May 2024. She was not a self-employed contractor at the relevant times.

[40] Additionally, the evidence demonstrated PAYE amounts were deducted from Ms Lin's wage payments except in the five instances outlined above at the end of her employment. At the investigation meeting, Ms Zhang indicated a strong willingness to assist Ms Lin in resolving the tax issues she is currently facing in respect of her employment with Yoke. Ms Lin's substantive claims against the respondents are adjourned to allow time for tax matters to be resolved, or otherwise adequately addressed.

### **Determination to be provided to Official Assignee and Inland Revenue**

[41] A copy of this determination is to be provided to the OA by the Authority. Ms Lin should provide a copy of this determination to Inland Revenue.

### **Costs**

[42] Costs are reserved.

Sarah Blick  
Member of the Employment Relations Authority