

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2025] NZERA 744
3305420

BETWEEN	AKASHDEEP SINGH Applicant
AND	JASLYN CO. LIMITED First Respondent
AND	ARIANA ENTERPRISES LIMITED Second Respondent
AND	VEENA DHALIWAL Third Respondent
AND	BHUPINDER KAUR Fourth Respondent

Member of Authority:	Peter van Keulen
Representatives:	John Wood and Susanne Lass for the Applicants Bhupinder Kaur for the Respondents
Investigation Meeting:	7 July 2025 in Christchurch
Submissions Received:	18 July 2025 from the Applicants 18 August 2025 from the Respondents
Date of Determination:	18 November 2025

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] Akashdeep Singh was living in India when he was recruited by Jaslyn Co. Limited to work for it in New Zealand as a Restaurant Manager.

[2] Mr Singh says that while recruiting him Bhupinder Kaur, the manager of Jaslyn Co's restaurant business, required him to pay INR 3,000,000 (NZ\$60,000) for his job; he was told this would cover the costs of obtaining his work visa. Mr Singh says he paid INR 3,000,000 as directed and was then given his Accredited Employer Work Visa (AEW Visa) enabling him to work as a Kitchen Hand for Jaslyn Co.

[3] Mr Singh travelled to New Zealand in June 2023 and commenced work at Jaslyn Co's Turkish restaurant on 5 July 2023.

[4] After four months Jaslyn Co sold the restaurant Mr Singh was working in and Mr Singh's employment was transferred to Ariana Enterprises Limited. Ariana Enterprises owned and operated two restaurants in Timaru and Ms Kaur was the manager of these restaurants.

[5] Mr Singh worked for seven months in Ariana Enterprises' restaurants. On 14 June 2024 Ariana Enterprises gave Mr Singh one month's notice of the termination of employment due to the sale of one of its restaurants. Mr Singh then resigned without giving any notice on 2 July 2024.

[6] Mr Singh says that in the course of his work for Jaslyn Co and Ariana Enterprises:

(a) He worked variable hours often less than the minimum hours in his employment agreements but sometimes more than 30 hours per week. Regardless of the hours worked for either company he was not paid for all the hours worked at the correct wage rate being \$29.66.

(b) He did not receive correct payment for public holidays that he worked.

(c) He was unjustifiably dismissed by Ariana Enterprises.

[7] Ms Kaur denies demanding and receiving \$60,000 from Mr Singh for his employment.

[8] Jaslyn Co and Ariana Enterprises say:

(a) They had an agreement with Mr Singh that varied the hours he would work and his wage rate such that the hours and wage rate in his employment agreements were not correct. Based on the agreed variation and the hours he

worked as recorded in time sheets, Mr Singh was paid correctly for the work he did, including any work on public holidays.

(b) Mr Singh was dismissed by Ariana Enterprises as the restaurant he worked in was sold – this dismissal was justified.

The Authority's investigation

[9] Mr Singh raised personal grievances for unjustified action causing disadvantage and unjustified dismissal. He then lodged a statement of problem in the Authority, which set out claims for:

(a) Repayment of NZ\$60,000 being an unlawful premium demanded by the Ms Kaur and paid by Mr Singh.

(b) Wage arrears for unpaid work and public holiday entitlements.

(c) A personal grievance for unjustified dismissal.

(d) Orders against Ms Kaur and Veena Dhaliwal as persons involved in the breaches pursuant to ss 142W and 142Y of the Employment Relations Act 2000 (the Act).

(e) Penalties against both companies and Ms Kaur and Ms Dhaliwal.

[10] I investigated this employment relationship problem by receiving written evidence and documents, holding an investigation meeting on 7 July 2025 and assessing the written submissions of the parties' representatives.

[11] In my investigation meeting, under oath or affirmation, the witnesses confirmed their written statement and gave oral evidence in answer to questions from myself and the parties' representatives.

[12] As permitted by s 174E of the Act I have not recorded all the evidence and submissions received, in this determination. I have set out my findings of fact and law, then based on this I have expressed conclusions on issues as necessary to dispose of the matter, and then I have specified the orders made as a result.

Unlawful premium

[13] Pursuant to s 12A Wages Protection Act 1983, no employer may seek or receive a premium for employment from any person employed by it (or proposed to be employed by it) and if this occurs then the employee may recover the amount paid, as a premium, through the Authority.

[14] To resolve Mr Singh's claim for repayment of an alleged premium I must decide, on the evidence I have received, whether Ms Kaur demanded a payment for employment with Jaslyn Co, from Mr Singh and if so, if he paid it.

Analysis

[15] Mr Singh's evidence is:

- (a) He was initially contacted by Harjeet Singh, a relative of his who was already working for one of Ms Kaur's restaurant businesses in New Zealand, about paying money for the AEW Visa. He was told to pay INR500,000 immediately so that the AEW Visa application could be made. He was then provided with details of a third party (a friend of Ms Kaur) whom he was to contact and arrange payment; he did this and then paid that person INR500,000 comprising three ATM payments on 18 April 2023 totalling INR 250,000 and one cash payment on 19 April 2023 of INR 250,000.
- (b) He was then contacted by Ms Kaur again; she gave him bank account details for her sister-in-law and told him to make further payments as soon as possible. On 12 May 2023 he made payment of INR 700,000 by bank transfer to Ms Kaur's sister-in-law. Then on 18 May 2023 he made a further payment of INR 600,000 by bank transfer to Ms Kaur's sister-in-law.
- (c) He was also told at this time to pay money to Mr H Singh, and he made two UPI transfers to him on 18 and 19 May 2023 totalling INR 200,000.
- (d) Then Ms Kaur gave him the bank account details of her father and Mr Singh made a bank transfer to this account on 25 May 2023 of INR 300,000.
- (e) Then on 2 June 2023 Mr Singh made two further transfers of money, on

instruction from Ms Kaur, of INR 500,000 to Mr H Singh and INR 200,000 to Ms Kaur's siter-in-law.

[16] Ms Kaur's response to this evidence is:

- (a) She denies demanding any payment of money from Mr Singh as a premium for employment. The business incurred a total cost of NZ\$6,000 for the AEW Visa which was the INR 300,000 paid to her father on 25 May 2023.
- (b) The other sums she says were private transaction between Mr Singh and the individuals which included, as far as she knew repayment of a debt between Mr Singh and her sister-in-law (although she knew none of the detail of this debt including not knowing how they knew each other), and transactions for exchange of currency using her friend which was the transfer of INR 500,000 on 18 and 19 April 2023.
- (c) In any event Ms Kaur says the claim for repayment of the alleged premium against her is a civil dispute and not an employment relationship problem, so I do not have jurisdiction to determine this part of Mr Singh's claim.

[17] Clearly the evidence of Mr Singh and Ms Kaur is conflicting. In assessing the evidence to establish which I prefer I note the following:

- (a) Mr Singh provided written evidence of the various payments he says he made and then supported that with oral evidence – his answers to my questions were consistent and credible.
- (b) Mr Singh also provided contemporaneous documents evidencing the various transactions, including bank statements, ATM receipts, text messages, bank transfer records, and UPI payment confirmations.
- (c) Mr Singh's version of what he paid and why he paid made sense and appeared to be credible.
- (d) Ms Kaur's evidence lacked substance and had no contemporaneous documents to support it other than one text exchange which was at best ambiguous.

(e) Ms Kaur changed her evidence, adding a significant detail in her oral evidence about the loan between her sister-in-law and Mr Singh.

(f) Ms Kaur's evidence did not stack up – there was no credible explanation for the various transactions between Mr Singh and others and given the amount at stake it is surprising that she did not think to have her sister-in law, her father or her friend give at least written evidence to support her version of events.

[18] Overall, I preferred the evidence of Mr Singh and am satisfied that Ms Kaur demanded payment from him for his employment with Jaslyn Co and he made the various payments as described. In this case Ms Kaur is to repay the unlawful premium of INR 3,000,000 (NZ\$60,000) to Mr Singh.

Wage arrears

[19] When Mr Singh first arrived in New Zealand he worked in Jaslyn Co's Turkish restaurant in Oamaru, Kebab King. The Kebab King operated from 11:00 am until 8:30 pm every day except Tuesdays when it was closed.

[20] Mr Singh's evidence is he generally worked evening shifts at the Kebab King. There was no roster but rather he was told what hours to work, and these hours were often changed at short notice or cancelled; on occasion Mr Singh worked over 30 hours in a week but generally he worked less than 30 hours which was the minimum hours recorded in his employment agreement. Mr Singh was not paid regularly for the work he did and was consistently underpaid. In the end, the pay Mr Singh did receive was not for all the hours he had worked nor was it at the correct rate.

[21] Jaslyn Co sold Kebab King in October 2023 and after some negotiation Mr Singh's employment was transferred to Ariana Enterprises a company operating two Turkish kebab restaurants in Timaru that were also managed by Ms Kaur.

[22] Mr Singh's evidence in respect of his work for Ariana Enterprises is similar to his experience at Jaslyn Co in that he was given variable hours of work at short notice and then not paid correctly either for the hours he worked or at the correct wage rate.

[23] Mr Singh's claim for wage arrears is based on his own record keeping of the hours he

worked and the payment he did receive including in connection with holidays. His claims are supported by contemporaneous documents including his record of hours worked and bank statements.

[24] Mr Singh quantifies the amount of wage arrears including holiday pay owed to him by Jaslyn Co as \$2,596.99 (net)¹ and \$7,857.95 (gross).²

[25] Mr Singh quantifies the amount of wage arrears including holiday pay owed to him by Ariana Enterprises as \$1,614.86 (net)³ and \$29,688.08 (gross).⁴

[26] Ms Kaur's evidence in response to Mr Singh's wage arrears claim is that when Mr Singh worked for each company the restaurant businesses did not make enough money to pay him for 30 hours per week (the hours in his employment agreement) at \$29.66 (the wage rate in his employment agreement). So, she had an agreement with Mr Singh that he would be given hours of work based on a fair distribution of the work between all employees and he would be paid minimum wage (at the time \$22.70). And, based on this, Ms Kaur says Mr Singh was paid correctly for the hours he worked at the minimum wage rate.

[27] I find that Mr Singh's calculation of the hours he worked and the money he is owed to be accurate. I do not accept that there was an agreement with him that he would work reduced hours at minimum wage – rather both things were imposed on him by Ms Kaur. Mr Singh is owed:

(a) \$2,596.99 (net) and \$7,857.95 (gross) by Jaslyn Co.

(b) \$1,614.86 (net) and \$29,688.08 (gross) by Ariana Enterprises.

¹ This being the shortfall of money he received against what is recorded in his income and tax summary from IRD.

² This amount comprising wage arrears, public holiday entitlements, annual leave and four weeks' notice.

³ This being the shortfall of money he received against what is recorded in his income and tax summary from IRD.

⁴ This amount comprising wage arrears, public holiday entitlements and annual leave.

Unjustifiable dismissal

Issues

[28] The issues for an unjustifiable dismissal grievance are:

- (a) Was the employee dismissed; and
- (b) If so, were the actions of the employer in deciding to dismiss the employee, justifiable?

What happened?

[29] On 14 June 2024 Mr Singh received a letter from Ms Kaur, as the director of Ariana Enterprises, giving him one month's notice of termination as the business was in the process of being sold.

[30] In response to this Mr Singh sought legal advice, took leave from work as he was stressed by the events and then resigned, without giving notice, on 2 July 2024.

Was Mr Singh dismissed?

[31] Mr Singh resigned before the end of the one month notice period he was not dismissed.

[32] In the circumstances though I am satisfied that Mr Singh can pursue a personal grievance for unjustified action causing disadvantage in connection with the consultation undertaken over the possible dismissal. That is, a grievance based on whether in deciding to dismiss Mr Singh, Ariana Enterprises act justifiably.

Were Ariana Enterprises actions in dismissing Mr Singh justified?

[33] The test for justification is set out in s 103A of the Act; the test being whether the actions of the employer were what a fair and reasonable employer could have done in all the circumstances. Applying that test here the question is whether Ariana Enterprises' actions in reaching the decision to dismiss Mr Singh were the actions a fair and reasonable employer could have done in all the circumstances at the time – this applies to the process adopted by Ariana Enterprises and the substantive justification for the decision.

[34] In terms of process, a fair process is governed by s 4(1A) and s 103A of the Act. In this case a fair process involves Ariana Enterprises consulting with Mr Singh over the potential sale of its business and giving him an opportunity to provide feedback on the potential loss of his employment.

[35] Having considered the evidence I find that Ariana Enterprises did not consult adequately with Mr Singh over the sale of its business and his potential dismissal as a result.

[36] For this reason, notwithstanding Mr Singh's resignation, Ariana Enterprises acted unjustifiably in coming to a decision to dismiss Mr Singh and this caused a disadvantage to Mr Singh's employment.

Remedies for Mr Singh's personal grievance

[37] As Mr Singh has been successful with a personal grievance, I must turn to consider what remedies he may be entitled to. In this regard, I may award any of the remedies provided for under s 123 of the Act.

The remedies sought by Mr Singh

[38] Mr Singh seeks:

- (a) Compensation - this is an award for the humiliation, loss of dignity and injury to feelings that an applicant suffers from the unjustified actions of the employer and the award is made pursuant to s 123(1)(c)(i) of the Act.
- (b) Lost remuneration – if an applicant has lost remuneration because of their personal grievances then pursuant to sections 123 and 128 of the Act, I may reimburse them for their lost remuneration. In this case I am not satisfied that Mr Singh lost remuneration because of the unjustifiable actions, any loss of remuneration comes from his decision to resign.

[39] So, I find Mr Singh is entitled to compensation for his personal grievance but not lost remuneration.

[40] I will turn to consider the level of compensation for Mr Singh. My task is to quantify the harm and loss caused by the humiliation, loss of dignity and injury to feelings arising out

of the unjustified actions by Ariana Enterprises. Recent decisions of the Employment Court provide guidance on this exercise of quantification.⁵

Compensation

[41] Mr Singh gave evidence of being stressed and depressed because of being told of his dismissal. I am satisfied that the quantum for the harm and loss suffered by Mr Singh is valued at \$16,000.00.

Contribution

[42] As I have awarded compensation to Mr Singh, I must now consider whether he contributed to the situation that gave rise to his grievance.⁶ This assessment requires me to determine if Mr Singh behaved in a manner that was culpable or blameworthy, and this behaviour contributed to his grievance.⁷

[43] Having assessed the evidence I conclude that Mr Singh did not act in a way that contributed to his grievance such that the compensation I have awarded should be reduced.

Persons involved in the breaches

[44] Mr Singh did not continue with his application to have Ms Dhaliwal declared a person involved in the breaches.

[45] Mr Singh seeks orders against Ms Kaur as a person involved in breaches of employment standards pursuant to ss 142W and 142Y of the Act.

[46] Having assessed the evidence I am satisfied that Ms Kaur was sufficiently involved in the day-to-day management of both companies' restaurant businesses that she knew of or made many of the decisions about the work Mr Singh did and the payment he received. Ms Kaur is a person involved in the breaches of employment standards by both Jaslyn Co and Ariana Enterprises.

[47] As a result of my order against Ms Kaur if either Jaslyn Co and/or Ariana enterprises

⁵ *Stormont v Peddle Thorp Aitken Ltd* [2017] NZEmpC 71, *Waikato District Health Board v Kathleen Ann Archibald* [2017] NZEmpC 132, *Richora Group Ltd v Cheng* [2018] NZEmpC 113.

⁶ Section 124 of the Act.

⁷ *Xtreme Dining Ltd v Dewar* [2016] NZEmpC 136

does not pay the wage arrears owed to Mr Singh, he can apply to Authority for an order that Ms Kaur is to pay.

Penalties

[48] I am not satisfied that there is a basis to award the various penalties sought in the statement of problem given the way they are articulated. So, for example a penalty is sought against Jaslyn Co for demanding a premium, but I have found that Ms Kaur demanded and received the premium and is personally liable to repay it.

[49] I will not order any penalties against Jaslyn Co, Ariana Enterprises or Ms Kaur.

Summary and orders

[50] Ms Kaur demanded and received a premium of INR 3,000,000 (NZ\$60,000) from Mr Singh for his employment with Jaslyn Co. Ms Kaur must pay Mr Singh INR 3,000,000 (NZ\$60,000).

[51] Jaslyn Co failed to pay Mr Singh the correct wage amount for all the hours that he worked and the public holidays he worked. Jaslyn Co must pay Mr Singh \$2,596.99 (net) and \$7,857.95 (gross).

[52] Ariana Enterprises failed to pay Mr Singh the correct wage amount for all the hours that worked and public holidays he worked. Ariana Enterprises must pay Mr Singh \$1,614.86 (net) and \$29,688.08 (gross).

[53] In settlement of Mr Singh's personal grievance Ariana Enterprises must pay Mr Singh \$16,000.00 for compensation pursuant to s 123(1)(c)(i) of the Employment Relations Act 2000.

[54] Ms Kaur is a person involved in breaches of employment standards – Mr Singh may apply to have her pay any of the wage arrears that either company does not pay.

Costs

[55] Costs are reserved. The parties are encouraged to resolve any issue of costs between themselves.

[56] If the parties are unable to resolve costs, and an Authority determination on costs is needed, Mr Singh 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 Jaslyn Co Ariana Enterprises and Ms Kaur 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.

[57] 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.⁸

Peter van Keulen
Member of the Employment Relations Authority

⁸ For further information about the factors considered in assessing costs see:
www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1