

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2025] NZERA 849
3393604

BETWEEN	DAVID O'LEARY Applicant
AND	JAIS ABEN LIMITED (in liquidation) First Respondent
AND	PETER JAMES PRIDGEON Second Respondent

Member of Authority: Peter Fuiava

Representatives: Applicant in person
No engagement by either Respondent

Investigation Meeting: On the papers

Submissions and information received: 9 October 2025 from the Applicant

Determination: 23 December 2025

DETERMINATION OF THE AUTHORITY

What is the employment relationship problem?

[1] This is a claim for unpaid holiday pay in the amount of \$9,685.15 initially brought by David O'Leary against Peter James Pridgeon, the sole director and 50 percent shareholder of the company to whom Mr O'Leary was employed, Jais Aben Limited (JAL or the company).

How has the Authority investigated?

[2] As noted in a minute from the Authority dated 8 October 2025, a case management conference by telephone was held with Mr O'Leary. Although Mr Pridgeon answered the Authority Officer's telephone call, he immediately exited the teleconference before I could be joined to the telephone, which was not long.

[3] The case management teleconference therefore proceeded with Mr O'Leary alone and as discussed with him, JAL was joined as a second respondent to this proceeding under s 221 of the Employment Relations Act 2000 (the Act) on account of the company being his employer. Having joined JAL as the first respondent, the company was directed to file its statement in reply by Wednesday 22 October 2025 however nothing was filed and there has been no further engagement by either of the respondents with my investigation. For completeness, a copy of the minute mentioned above was couriered to JAL's registered office address as well as its address for service as recorded in the Companies Office register.

[4] By agreement with Mr O'Leary, this investigation has been completed 'on the papers' which includes a copy of what he previously filed in the Disputes Tribunal before being correctly advised that he needed to re-file his claim with the Employment Relations Authority given the nature of his claim.

[5] On 27 November 2025, the Authority received a letter from an insolvency practitioner advising that it was in receipt of the Authority's minute of 8 October 2025. However, the letter further stated that JAL had been placed into liquidation on 5 November 2025 at 12 pm and that there were currently no funds available for any distribution. Moreover, the writer stated that she did not approve of the matter proceeding.

Assessment

[6] The above letter makes clear that the Authority's investigation against JAL can no longer proceed because consent from the liquidator has been withheld. This reflects s 248(1)(c) of the Companies Act 1993 which states that when a company has been liquidated no legal proceedings shall be commenced or continued against the company unless the liquidator or High Court otherwise agree.

[7] However, even so, JAL's liquidation does not preclude Mr O'Leary from proceeding against Mr Pridgeon as a person involved in a breach of employment standards under s 142Y of the Act. This section is designed to ensure that employees have an avenue for recovery even when the company to whom they are employed is subsequently placed into liquidation as is the case here.

[8] A breach of ‘employment standards’ has a wide definition under s 5 of the Act and includes, among other things, the payment of minimum entitlements under the Holidays Act 2003, and in the present case, Mr O’Leary is seeking payment of unpaid holiday pay in the total amount of \$9,685.15.

[9] I am satisfied that Mr Pridgeon is well aware of this investigation owing to his attendance however brief at the case management teleconference. Further, there is the liquidator’s letter from which it can be reasonably inferred that the Authority’s minute of 8 October 2025 had been directly or indirectly provided to the liquidator by Mr Pridgeon himself. His decision not to engage with this process does not preclude the Authority from determining this employment problem in his absence.¹

[10] Having regard to the information and evidence before me, Mr O’Leary’s uncontested claim of outstanding holiday pay in the amount of \$9,685.15 is accepted. I find that there has been a default in the payment of wages or other money payable to an employee;² that the default is due to a breach of employment standards;³ and that as the sole company director of JAL, Mr Pridgeon is a person involved in a breach of employment standards.⁴ This is a case where it is appropriate that leave be granted by the Authority for Mr O’Leary to recover his unpaid holiday pay personally from Mr Pridgeon himself especially now that owing to its liquidation, JAL, is unable to make payment of what it owes to Mr O’Leary.⁵

[11] This is an appropriate case also for the award of interest as Mr O’Leary has been deprived of the use of his holiday pay since he texted Mr Pridgeon on 18 April 2025 requesting payment. Despite repeated requests and an acknowledgement by Mr Pridgeon on 18 April 2025 that he needed a few days to obtain funds from the sale of his house before organising payment in full, Mr O’Leary never received his holiday pay.

¹ The Act, sch 2, cl 12.

² The Act, s 142Y(1)(a).

³ Section 142(Y)(1)(b).

⁴ Section 142(Y)(1)(c).

⁵ Section 142Y(2)(a) and (b).

[12] Accordingly, Mr Pridgeon is ordered to pay interest on \$9,685.15 from 18 April 2025 to the date payment is made in full. Interest is to be calculated using the civil debt interest calculator.⁶

[13] Given the outcome of this investigation in which Mr O’Leary has been successful, it is appropriate that he be reimbursed the filing fee of \$71.55 that he paid to lodge his statement of problem with the Authority. As Mr O’Leary has represented himself in this investigation, costs shall lie where they fall.

Summary of Orders

[14] The Authority finds Peter James Pridgeon to be a person involved in a breach of employment standards under ss 142Y and 142W of the Act. As the employing company, Jais Aben Limited is now in liquidation, the Authority orders Peter James Pridgeon to pay David O’Leary the following monies no later than Friday 23 January 2026:

- (i) \$9,685.15 (gross) in holiday pay arrears;
- (ii) interest on \$9,685.15 (as per the calculus noted above) from 18 April 2025 until the date payment is made in full; and
- (iii) reimbursement of the filing fee of \$71.55.

Peter Fuiava
Member of the Employment Relations Authority

⁶ www.justice.govt.nz/fines/civil-debt-interest-calculator.