

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

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

[2026] NZERA 195  
3371803

BETWEEN	JONNY LU Applicant
AND	CORNERSTONE INTERNATIONAL GROUP LIMITED (T/A STONEWOOD HOMES WEST AUCKLAND) Respondent

Member of Authority:	Simon Greening
Representatives:	Applicant in person Lina Li, advocate for the Respondent
Investigation Meeting:	3 March 2026 in Auckland
Submissions received:	9 March 2026 from both parties
Determination:	31 March 2026

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1] Jonny Lu commenced employment with Cornerstone International Group Limited (trading as Stonewood Homes West Auckland), (CIGL), as a project manager, on 4 June 2024.

[2] Mr Lu resigned on 14 January 2025. He lodged his statement of problem in the Authority on 13 April 2025.

[3] Mr Lu says CIGL did not provide him with a written employment agreement prior to his commencement date. Mr Lu says CIGL engaged in unfair bargaining regarding the terms of his employment by not providing him with an opportunity to seek independent legal advice.

[4] Mr Lu says CIGL breached s 130(2) of the Employment Relations Act 2000 (the Act) by not providing him with payslips upon request and did not pay him correctly for sick leave or annual leave during the term of his employment.

[5] Mr Lu says he raised a personal grievance for unjustified disadvantage in a series of WeChat communications with CIGL and raised a personal grievance for constructive dismissal in his statement of problem.

[6] Finally, Mr Lu says he was required to work 50 hours each week, on average, and this was in breach of his employment agreement which records 40 hours per week.

[7] CIGL's position is that it provided Mr Lu a draft version of the written employment agreement on 8 October 2024 and this agreement was signed one month later following discussions between Mr Lu and CIGL.

[8] CIGL says Mr Lu was paid sick leave and annual leave during the term of his employment, and no unlawful deductions were made from Mr Lu's final pay.

[9] Mr Lu sent WeChat messages to CIGL explaining his dissatisfaction with the job, CIGL maintains these communications do not collectively amount to raising a personal grievance for unjustified disadvantage. In addition, there is insufficient information in the statement of problem to establish a personal grievance for constructive dismissal was raised by Mr Lu.

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

[10] For the Authority's investigation a written witness statement was lodged by Mr Lu. Mr Sam Lu is the director of CIGL and was a witness for CIGL at the investigation meeting. All witnesses answered questions under oath or affirmation from me.

[11] As permitted by s 174E of the Act this determination has stated findings of fact and law, expressed conclusions on issues necessary to dispose of the matter and specified orders made. It has not recorded all evidence and submissions received.

## **The issues**

[12] The issues requiring investigation and determination:

- (a) Did CIGL breach s 65 of the Act by not providing Mr Lu with a written employment agreement at the commencement of employment, and, if so, should a penalty be issued?
- (b) Did CIGL breach s 63A(2) of the Act by engaging in unfair bargaining, and, if so, should a penalty be issued?
- (c) Did CIGL breach s 130(2) of the Act by not providing Mr Lu with a copy of his wages and time record, and, if so, should a penalty be issued?
- (d) Did CIGL breach s 63 of the Holidays Act 2003 (HA03), and, if so, should a penalty be issued?
- (e) Did CIGL unlawfully deduct the sum of \$346.71 from Mr Lu's final pay?
- (f) Did CIGL breach s 16 of the HA03, and, if so, should a penalty be issued?
- (g) Did Mr Lu raise a personal grievance with CIGL within the statutory timeframe for doing so?
- (h) Did CIGL breach Mr Lu's employment agreement by requiring him to work more than 40 hours per week?
- (i) If Mr Lu has raised a personal grievance within the statutory timeframe, and the personal grievance is established on the facts, then is Mr Lu entitled to a consideration of remedies including:
  - i. Compensation under section 123(1)(c)(i) of the Act; and
  - ii. Reimbursement of lost wages under section 128 of the Act.
- (j) Should any remedy awarded be reduced under section 124 of the Act for blameworthy conduct by Mr Lu which contributed to the circumstances which gave rise to the grievance?
- (k) Is either party entitled to an award of costs?

**Did CIGL breach s 65 of the Act by not providing Mr Lu with a written employment agreement at the commencement of employment, and, if so, should a penalty be issued?**

[13] CIGL accepts it did not provide Mr Lu with a written employment agreement at the outset of the employment relationship.

[14] Mr Lu commenced employment with CIGL on 4 June 2024. CIGL provided Mr Lu with a written employment agreement on 8 October 2024. For a period of approximately four months, the employment relationship operated on the basis of verbal terms agreed between the parties.

[15] An individual employment agreement must be in writing.<sup>1</sup> The maximum penalty for a single breach of the Act in relation to a company is \$20,000.<sup>2</sup> CIGL says Mr Lu was not disadvantaged, and he did not sustain any financial loss, due to the delay in providing him a written employment agreement.

[16] If there are no aggravating features or evidence of a deliberate breach of the Act, then generally penalties for such breaches are at the lower end of the spectrum.<sup>3</sup>

[17] To highlight the importance of compliance with the Act, a modest penalty of \$500 is appropriate in the circumstances.

[18] Within 28 days of the date of this determination, CIGL is ordered to pay the sum of \$500 as a penalty to Mr Lu.

**Did CIGL breach 63A of the Act by engaging in unfair bargaining, and if so, should a penalty be issued?**

[19] On 8 October 2024, CIGL provided Mr Lu with a written employment agreement.

[20] Livia Zhang, employed by CIGL as the office manager, followed up Mr Lu on 10 October 2024 asking whether he would sign and return the employment agreement.

[21] On 15 October 2024 Mr Lu emailed Ms Zhang with questions and comments about the terms of employment. Mr Lu asked for the Stonewood logo to be on the employment agreement. Mr Lu asked for the trial period provision clause to be removed. Mr Lu asked about what was required for him to complete time-recording on a daily basis. He also asked about the job description and suggested minor amendments.

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<sup>1</sup> Employment Relations Act 2000, s 65(1)(a).

<sup>2</sup> Employment Relations Act 2000, s135(2)(b).

<sup>3</sup> *Keighran v Kensington Tavern Limited* [2024] NZEmpC 28 at [66].

[22] On 5 November 2024 CIGL provided Mr Lu with an amended employment agreement. The next day Mr Lu emailed CIGL asking for a copy of the employment handbook and proposed further changes to the job description.

[23] The parties signed the employment agreement on 8 November 2024.

[24] CIGL provided Mr Lu with a copy of the intended agreement under discussion; gave Mr Lu the opportunity to seek legal advice and considered the issues Mr Lu raised and responded to them.

[25] However, CIGL did not advise Mr Lu of his right to seek independent advice about the intended agreement.<sup>4</sup> CIGL did give Mr Lu sufficient time to seek advice. CIGL engaged in good faith bargaining by considering Mr Lu's questions and comments and amending the employment agreement accordingly.

[26] I find that CIGL did not comply with one of the requirements of s 63A(2) of the Act, however, for the reasons set out above, a penalty is not justified in these circumstances.

**Did CIGL breach s 130(2) of the Act by not providing Mr Lu with a copy of his wages and time record, and, if so, should a penalty be issued?**

[27] On 14 January 2025, four days before his final day of employment with CIGL, Mr Lu asked for his first three payslips and last three payslips.

[28] CIGL provided these payslips to Mr Lu after he lodged his statement of problem in the Authority.

[29] CIGL accepts it did not respond to Mr Lu's request in a timely manner.

[30] There are no aggravating features or evidence of a deliberate breach of the Act. To underscore the importance of compliance with the Act, a penalty is appropriate in the circumstances.

[31] Within 28 days of the date of this determination, CIGL is ordered to pay the sum of \$500 as a penalty to Mr Lu.

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<sup>4</sup> Employment Relations Act 2000, s 63A(2)(b).

**Did CIGL breach s 63 of the Holidays Act 2003 (HA03), and, if so, should a penalty be issued?**

[32] During the investigation meeting I reviewed the evidence provided by CIGL in respect of sick leave paid to Mr Lu during the term of his employment with the company.

[33] CIGL paid Mr Lu sick leave in accordance with s 63(1) of the Holidays Act 2003.

[34] This claim does not succeed.

**Did CIGL unlawfully deduct the sum of \$346.71 from Mr Lu's final pay?**

[35] The amount deposited into Mr Lu's bank account on 31 January 2025, is different to the amount recorded by CIGL in its records. This is because the sum of \$346.71 was deducted from Mr Lu's final pay.

[36] CIGL emailed Mr Lu explaining that a reimbursement, owed by Mr Lu to CIGL, and a speeding ticket he had incurred while driving the company vehicle, would be deducted from his final pay. Mr Lu did not respond to this email. CIGL explained in a further email on 31 January 2025 that Mr Lu could reimburse the company these sums, or they would be deducted from his final pay. On 9 February 2025 Mr Lu replied to this email apologising for the delay. He did not question the sums that had been deducted from his final pay.

[37] Mr Lu's employment agreement, at clause 21.9, contains a general deductions clause:

You will repay to the Employer the balance of any loans or advances made by the Employer against your pay or leave entitlements, or any money otherwise owed to the Employer by you. The Employer is authorised to deduct from your final pay any monies owing to the Employer on termination.

[38] I am satisfied that CIGL consulted with Mr Lu regarding specific deductions in accordance with a general deductions clause in his employment agreement.<sup>5</sup>

[39] This claim does not succeed.

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<sup>5</sup> Wages Protection Act 1983, s 5(1A).

[40] Finally, the amount of \$2,401.66 paid on 8 November 2024 into Mr Lu's bank account aligns with the payroll record provided by CIGL.

**Did CIGL breach s 16 of the HA03, and, if so, should a penalty be issued?**

[41] Mr Lu says he was paid annual leave on 13 January and 14 January 2025, however he worked both days.

[42] It is clear from the payslips and records provided by CIGL that Mr Lu was paid annual leave for both days.

[43] I accept Mr Lu's evidence that he worked both days.

[44] There was a misunderstanding between the parties as to whether Mr Lu was being paid annual leave for both days, or whether he was working on the days in question. A penalty is not justified in these circumstances.

[45] Within 28 days of the date of this determination, CIGL is ordered to pay Mr Lu the sum of annual holiday pay equivalent to two days.

**Did Mr Lu raise a personal grievance with CIGL?**

[46] Mr Lu says that he raised a personal grievance for unjustified disadvantage and/or constructive dismissal with CIGL.

*Unjustified disadvantage*

[47] Lisa Zhang held management role with CIGL during Mr Lu's term of employment. Mr Lu says that through a series of WeChat messages with Ms Zhang, he raised a personal grievance for unjustified disadvantage.

[48] Where there has been a series of communications, not only would each be examined as to whether it might constitute raising a grievance, but the totality of those communications might also constitute raising the grievance.<sup>6</sup>

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<sup>6</sup> *Chief Executive of Manukau Institute of Technology v Zivaljevc* [2019] NZEmpC 132 at [36].

[49] However, the employer must know what it is responding to; it must be given sufficient information to address the grievance, that is to respond to it on its merits with a view to resolving it.<sup>7</sup>

[50] On 17 November 2024, Mr Lu sent Ms Zhang three WeChat messages. I have examined the communications between Mr Lu and Ms Zhang. The first message relates to Mr Lu feeling blamed by CIGL for arranging two employees to work on a construction site on 8 November 2024. The second message contains an accusation, by an undisclosed person to CIGL, that Mr Lu's approach to site management is "*chaotic*". The third message is a complaint from Mr Lu that someone came to the construction site he was managing and sought to take over his role.

[51] Other than this series of WeChat messages, there was no other evidence before the Authority of other communications of this nature between Mr Lu and CIGL.

[52] The series of WeChat messages between Mr Lu and CIGL were about the way in which Mr Lu was managing his construction site.

[53] Although Mr Lu was upset because he felt CIGL was unfairly blaming him for some of the issues on site, Mr Lu's complaint does not amount to a personal grievance within the meaning of s 103 of the Act.<sup>8</sup>

[54] The substance of Mr Lu's complaint does not disclose that he had been disadvantaged by some particular action of CIGL. The substance of Mr Lu's complaint is CIGL's unjustified frustration regarding his approach to site management. However, CIGL did not take action that caused Mr Lu to be disadvantaged at work.

[55] Furthermore, Mr Lu's communications with CIGL do not make it clear what he wants them to address by way of response to his alleged personal grievance.<sup>9</sup>

[56] Mr Lu did not raise a personal grievance for unjustified disadvantage with CIGL.

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<sup>7</sup> Above at 5 at [38].

<sup>8</sup> *Sharma v Rodney Farm 'N' Machinery Limited* [2025] NZEmpC 64 at [30].

<sup>9</sup> Above n 8 at [30].

### *Constructive dismissal*

[57] Mr Lu discussed his resignation with Mr Sam Lu in early January 2025. Mr Sam Lu told the Authority Mr Lu called him for a “quick chat” and informed him during this call he was resigning.

[58] Following the call, Mr Lu emailed CIGL to confirm he was resigning, and his final day of employment would be 18 January 2025.

[59] Mr Lu says he raised a personal grievance for constructive dismissal in his statement of problem. Mr Lu’s statement of problem lists the following problems:

- Undermine my ability to work and ask newly joined carpenter to make up things.
- Asked to sign unreasonable documents on my handover day.
- Work extra-long hours, average over 50 hours per week.

[60] In *Auckland Shop Employees’ Union v Woolworths (NZ) Ltd*<sup>10</sup> the Court of Appeal accepted that a constructive dismissal could arise in situations where:

- (a) an employer had given an employee an option of resigning or being dismissed; or
- (b) an employer had followed a course of conduct with the deliberate and dominant purpose of coercing the employee to resign; or
- (c) a breach of duty by the employer led an employee to resign.

[61] The only information provided by Mr Lu to CIGL in respect of the alleged personal grievance, were the three points set out in his statement of problem. Mr Lu did not provide sufficient information to CIGL so it could address the purported personal grievance for constructive dismissal.<sup>11</sup>

[62] Mr Lu has not raised a personal grievance for unjustified disadvantage or constructive dismissal in accordance with s 114 of the Act.

[63] This claim does not succeed.

### **Did CIGL breach Mr Lu’s employment agreement by requiring him to work more than 40 hours per week?**

[64] Mr Lu says that CIGL required him to work approximately 50 hours per week.

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<sup>10</sup> *Auckland Shop Employees Union v Woolworths (NZ) Ltd* [1985] 2 NZLR 372 at [139].

<sup>11</sup> Above n 8 at [31].

[65] Mr Lu received a salary from CIGL. Mr Lu's employment agreement states he would be required to work any additional hours which were reasonably necessary to fulfil the requirements of his duties, or as reasonably required.

[66] Mr Lu's employment agreement further records his acceptance that the salary of \$80,000 per annum, takes into account any hours he is required to work outside his standard hours of employment.

[67] Mr Lu has not provided evidence in support of his claim that he worked approximately 50 hours per week.

[68] On that basis, I am not satisfied that this claim is made out.

[69] This claim does not succeed.

### **Orders**

[70] Within 28 days of the date of this determination I order CIGL:

(a) to pay the sum of \$500 as a penalty to Mr Lu, pursuant to s 65(4) of the Act;  
and

(b) to pay the sum of \$500 as a penalty to Mr Lu, pursuant to s 130(4) of the Act; and

(c) to pay Mr Lu the sum of annual holiday pay equivalent to two days.

### **Costs**

[71] Mr Lu was not legally represented. Costs will lie where they fall.

Simon Greening  
Member of the Employment Relations Authority