

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

**I TE RATONGA AHUMANA TAIMAHI  
TE WHANGANUI-A-TARA ROHE**

[2026] NZERA 244  
3342860

BETWEEN ADARSH CHAND  
Applicant

AND PROFESSIONAL STYLISH  
BARBER SHOP LIMITED  
Respondent

Member of Authority: Geoff O’Sullivan

Representatives: Daniel De Chasteigner Dumeé, representative for the  
Applicant  
Pravin Kumar, representative for the Respondent

Investigation Meeting: 4 December 2025 in Wellington and by AVL

Submissions and Other Information Received: Up to and including 20 April 2026

Determination: 23 April 2026

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1] Mr Chand makes a number of claims against Professional Stylish Barber Shop Limited (Barber Shop). He says it is guilty of a breach of good faith, breaches of the Minimum Wages Act 1983, breaches of the Holidays Act 2003, and breaches of s 130 of the Employment Relations Act 2000 in that it failed to keep wage and time records. Mr Chand also says that Pravin Kumar is a person involved in a breach of employment standards in terms of s 142Y of the Act and seeks leave to recover lost wages from him for those breaches.

[2] Mr Chand says that when he became sick with a chest infection, Barber Shop’s manager Praneet Pritesh Kumar, Mr Pravin Kumar’s son, texted him saying “don’t come to work anymore in my shop”. Mr Chand did, however, return to work and was

told by Mr Pravin Kumar that he felt he had been dismissed by Praneet Kumar. Mr Pravin Kumar told him he would be dismissed when he received a letter.

[3] On 23 March 2024, after receiving a second warning letter, Mr Chand resigned because he felt drained in his employment, treated unfairly (through unjustified warnings) and not being paid properly. He says his resignation was forced on him and therefore he was constructively dismissed from his employment. He seeks the following:

- (a) Payment of all unpaid wages;
- (b) Payment for holiday pay;
- (c) Compensation for wages from the date of his dismissal;
- (d) Compensation for hurt and humiliation of \$50,000.

[4] Barber Shop rejects Mr Chand's claims saying that they had given him warnings following complaints from customers, and there was no dismissal because Mr Chand voluntarily resigned from his employment.

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

[5] During the investigation meeting, the Authority received evidence from Mr Chand; Mr Pravin Kumar, the director of Barber Shop; and Praneet Kumar, his son who had a managerial role for Barber Shop. All witnesses gave evidence either by oath or affirmation. Pravin Kumar and Praneet Kumar attended the investigation meeting by way of audio-visual link.

[6] As permitted by s 174E of the Employment Relations Act 2000 (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**

[7] The following issues are identified for investigation and determination:

- (a) Was Mr Chand paid at or above the minimum wage for all hours worked?
- (b) Has Barber Shop breached the Holidays Act by not paying any holiday pay due or sick leave?

- (c) Has Barber Shop breached s 130 of the Act by failing to keep wage and time records?
- (d) Has Barber Shop's behaviour created an environment by where Mr Chand was left with no option but to resign from his employment under circumstances which would constitute a constructive dismissal?
- (e) Is s 142Y of the Act engaged by the fact that Pravin Kumar is a person involved in a breach of minimum employment standards?
- (f) If Mr Chand was unjustifiably dismissed, what remedies should flow?

### **Background**

[8] Mr Chand was employed by Barber Shop in a full-time position for 40 hours a week. He commenced employment on 12 December 2022.

[9] On the same day he signed an Employment Agreement setting out the agreement between the parties which included working a 40-hour week. During his first week of employment, Mr Chand says he was required to work 55 hours and was told he would be paid for those additional hours. Further, he said he was not provided with breaks and if these were added on, his correct working hours for that first week would have been 58.5 hours.

[10] Mr Chand requested payslips regularly and was advised after he had started that he would not be entitled to public holidays. Because of this, he decided to record his own hours but continued to request payslips.

[11] Mr Chand says that over the Christmas holiday period of December 2022 to January 2023 he was given time off when the shop was closed for public holidays, but he was not paid for them. He says he was given just ten minutes to have lunch breaks before returning to work.

[12] On 16 March 2023 Pravin Kumar came to Mr Chand at work and asked for his house keys. He accused Mr Chand of taking drugs and keeping them in the house.

[13] After three months of work, Mr Chand was provided with three months of payslips which showed he consistently worked 40 hours per week. He says that these were wrong because he was working 55 hours per week.

[14] On 26 March 2023, Mr Chand was due to return to Fiji for a family event. He says he asked Pravin Kumar to pay him for the additional hours he had worked over and above the 40 hours contracted. Mr Kumar declined to do so.

[15] On 9 April 2023, Mr Chand returned from his trip to Fiji. He says he was then threatened with physical harm for spreading rumours.

[16] In May 2023, Mr Chand requested sick leave explaining that he had a medical issue and required rest. Pravin Kumar requested a medical certificate. Mr Chand says he could not afford it but ultimately, he took two days' sick leave for which he did not receive payment.

[17] In August 2023, Mr Chand was given a new employment agreement by Barber Shop. The agreement was backdated to 30 January 2023. Mr Chand began to complain about working 55 hours a week and says he was threatened with deportation.

[18] On 1 September 2023, Barber Shop asked that all staff submit to a drug test. Mr Chand saw that Pravin Kumar's children were excluded so he refused to take the test. This resulted in him receiving a warning.

[19] In late October 2023, Mr Chand wished again to visit Fiji. A week prior to leaving he asked Pravin Kumar for the backpay he believed he was owed for the additional hours worked. Pravin Kumar denied that anything was owing and also advised him to apply for annual leave which he then did.

[20] On 2 November 2023, Mr Pravin Kumar advised Mr Chand that his hours were to be reduced to 32 hours per week because the shop was quiet. Mr Chand pleaded with Pravin Kumar to keep his hours and agreed to work extra hours asked. He says he was placed under a lot of stress and his marriage fell apart partly as a result of the workplace stress.

[21] Over this period, Mr Chand says he was not well and requested sick leave. Again he was told to get a medical certificate so asked for annual leave instead. He says this was because he could not afford to go to his doctor.

[22] On 16 January 2024, Mr Chand did take two days sick leave and received a certificate from his doctor. Pravin Kumar accepted the certificate and told him he would

be paid for the sick leave at the end of the year. After complaining, the sick leave was paid.

[23] In February 2024 there were several issues at work. Mr Chand was told to hurry with the haircut he was working on. This resulted in the client's mother complaining about the haircut.

[24] On 11 February 2024 Mr Chand was asked to attend a meeting which he could not attend. When he returned to work on 13 February 2024, he received a warning letter relating to the haircut. It also included an accusation he was buying drugs at work.

[25] On 12 March 2024, Praneet Kumar, the manager, asked Mr Chand for a copy of his Tenancy Agreement stating it was a requirement for immigration. Mr Chand did not have a copy and rang Immigration New Zealand. Immigration New Zealand confirmed they had not required the Tenancy Agreement. Further, they advised that if they needed information from him, they would request it from him personally. Mr Chand mentioned this to the manager. This resulted in the manager sending a text "Don't come to work anymore in my shop". Mr Chand responded asking whether he was being dismissed and after speaking to Pravin Kumar, returned to work. Pravin Kumar stated to Mr Chand that he would be dismissed when he got a letter.

[26] On 23 March 2024, Mr Chand received a second warning letter and on 2 April 2024 he handed in his resignation stating his last day would be 13 April 2024.

### **Evidence and discussion**

*Mr Chand's claim he was paid less than the minimum wage*

[27] Mr Chand claims there has been breach of s 6 of the Minimum Wage Act 1983 because Barber Shop failed to pay him the minimum wage for all hours worked. This claim is based on his allegation that although he was contracted to work 40 hours per week, for periods he worked in excess of this. Barber Shop refutes this.

[28] Barber Shop has provided the Authority with wage and time records which indicate there has been no failure to pay the minimum wage for hours worked. Mr Chand's evidence was that the records were wrong, however, other than his written evidence, he has been unable to produce any corroborating evidence to indicate this. Accordingly, he has been unable to establish this claim, and I accept the accuracy of Barber Shop's records.

*Failure to keep accurate wage and time records*

[29] Mr Chand's evidence was that Barber Shop had breached s 130 of the Act because it did not keep accurate wage and time records. Barber Shop disputes this and again relies on the records it had provided to the Authority. Mr Chand has been unable to provide any corroborative evidence to support his view the Barber Shop's records were incorrect.

*Sick leave*

[30] Mr Chand also claims that there were occasions when he was entitled to sick leave but was not given it. This claim again is resisted by Barber Shop. The evidence indicates that on times when Mr Chand asked for sick leave and had a doctor's certificate, sick leave was given. Mr Chand, however, says there were times when he was sick and sick leave was refused because he could not afford to get a medical certificate. There is little evidence to support Mr Chand's position in that regard. Without that evidence, I infer that Mr Chand was paid for sick leave when it was properly notified.

*What caused Mr Chand's employment to end?*

[31] Mr Chand gives a number of reasons as to why his employment with Barber Shop was untenable. In support of his position he says he was given no breaks. During the investigation meeting, it became clear Mr Chand had been taking smoking breaks. Accordingly, I find it more likely than not that Mr Chand did take breaks but in any event this played no part in the termination of his employment.

[32] Of more significance is the fact that during his employment, Mr Chand received two warnings: one on 13 February 2024, and the second on 23 March 2024.

[33] The 13 February 2024 warning was for the possession of a prohibited substance at the workplace, along with customer complaints. Mr Chand disputes the validity of the allegations and strongly refutes possession of a prohibited substance. In any event, there was absolutely no process regarding the issuing of the warning.

[34] Allegations were not put to Mr Chand to answer, no investigation was carried out, and no ability to have a representative at any interview was discussed and indeed no interview with Mr Chand was held.

[35] The issuing of the warning is not an action a fair and reasonable employer could have taken under all the circumstances. The warning was both procedurally and substantively unjustified. It was not open to a fair and reasonable employer to conclude any misconduct, bearing in mind the absolute lack of investigation.

[36] A second warning was issued on 23 March 2024. The warning was given for unsatisfactory work performance and customer service. Once again, there was simply no process or discussion undertaken prior to the issuing of the warning. There was no investigation, and Mr Chand was given no chance to reply to the allegations. It was not open to a fair and reasonable employer to issue this warning under the circumstances. The warning is both procedurally and substantively unfair. It is substantively unfair because there was no basis on which Barber Shop could make adverse findings against Mr Chand without his input.

[37] Mr Chand believed that the second warning was issued in retaliation. In between the two warnings, on 13 March 2024, he had received a text which simply said:

DONT COME TO WORK ANYMORE IN MY SHOP

[38] The text was sent by the manager. Mr Chand took the text as dismissal but asked the manager the reason. He was advised to talk to Pravin Kumar, which he did. Pravin Kumar advised Mr Chand that he would be dismissed when he got a letter.

[39] On 23 March 2024 Mr Chand received the second warning letter which advised that in two weeks' time there would be a review and a failure to meet expected standards would most likely result in termination of employment.

[40] On 2 April 2024, Mr Chand handed in his resignation advising his last day would be 13 April 2024. He says he was drained by the constant pressure from Barber Shop and being treated unfairly because he chose to defend his rights.

[41] Mr Chand gave evidence as to how losing his job affected his life, his marriage, and peace. He said the end of his employment caused havoc and he blamed it in part for destroying his marriage. I accept Mr Chand's evidence that he did not want to leave his employment and felt forced to do so.

*Was Mr Chand unjustifiably constructively dismissed?*

[42] S 103A of the Act sets out the test for assessing whether a dismissal was justifiable. This requires an objective assessment of Barber Shop's actions and whether how it acted was what a fair and reasonable employer could do in all the circumstances at the time the alleged dismissal occurred. The Court of Appeal, when discussing constructive dismissal in *Auckland Shop Employees Union v Woolworths (NZ) Limited*<sup>1</sup> held that constructive dismissal includes but is not limited to cases where:

- (i) An employer gives an employee a choice of resigning or being dismissed.
- (ii) An employer has followed a course of conduct with the deliberate and dominant purpose of coercing an employee to resign.
- (iii) A breach of duty by the employer causes an employee to resign.

[43] Where an employee alleges a dismissal is caused by a breach of duty, the questions for consideration are then whether the breach of duty by the employer caused the employee's resignation, and if yes, whether the breach was of sufficient seriousness to make it reasonably foreseeable resignation would follow<sup>2</sup>.

[44] Mr Chand relies on two unjustified warnings, a text which was dismissive in nature, and a belief he would no longer be treated fairly by Barber Shop. The evidence before the Authority shows it was unlikely Barber Shop was going to change its behaviour towards Mr Chand. I find these breaches of duty by Barber Shop caused Mr Chand to resign although it is arguable he had already been dismissed by text. It was foreseeable that Mr Chand would not put up with these continued breaches of duty and that his resignation would follow. I find that Mr Chand was unjustifiably dismissed.

[45] As Mr Chand has made out his personal grievance of unjustified dismissal, it follows he is entitled to a consideration of remedies. Following the guidelines from the Court I consider that a sum of \$12,000 compensation is appropriate under the circumstances.

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<sup>1</sup> *Auckland Shop Employees Union v Woolworths (NZ) Limited* [1985] 2 NZLR 372, (1985) ERNZ SEL CAS 136 (CA)

<sup>2</sup> *Auckland Electorate Power Board v Auckland Provincial District of Local Authorities Offices Industrial Union of Workers (Inc)* [1994] 2 NZLR, 415, [1994] 1 ERNZ, 415, [1994] 1 ERNZ, 168 (CA)

[46] Mr Chand has also lost wages as a result of his dismissal and three months' wages equates to a sum of \$14,560. This is based on Mr Chand working 40 hours per week at \$28 per hour.

[47] Section 124 of the Act requires me to consider whether or not Mr Chand contributed to the situation giving rise to his grievance. I consider that there could be no deduction from the remedies I have ordered because I find there is no evidence that Mr Chand contributed in a blameworthy way to the circumstances surrounding the dismissal.

### **Summary of Orders**

[48] Within 21 days of the date of this Determination, Professional Stylish Barber Shop Limited is to pay Mr Adarsh Chand the following:

- (a) Compensation of \$12,000 in terms of s 123(1)(c)(i) of the Act; and
- (b) Three months' salary equating to \$14,560 (less PAYE).

[49] As I have found Mr Chand has not shown there were outstanding wages owing, I have not considered granting him leave under s.142Y of the act.

### **Costs**

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

[51] If the parties are unable to resolve costs, and an Authority determination on costs is needed, Mr Chand 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 Professional Stylish Barber Shop Limited 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.

[52] 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.<sup>3</sup>

Geoff O’Sullivan  
Member of the Employment Relations Authority

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<sup>3</sup> For further information about the factors considered in assessing costs see:  
[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)