

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2026] NZERA 299
3308540

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| 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 |

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| 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: | 19 March 2026 in Auckland |
| Information and Submissions received: | At the investigation meeting and up to and including 9 April 2026 |
| Determination: | 15 May 2026 |

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] Dongyan Lin (known as Chloe Lin) worked in office administration for one or both of Yoke Insulation Limited (in liquidation) (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 October 2023, until her employment ended in 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 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, for which a penalty is sought. There is also an application for leave to recover the PAYE deductions from her personally, as a person involved in breaches of employment standards.

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

The Authority's process

[6] An investigation meeting was held on 30 September 2025, during which the Authority heard evidence from Yoke's director and shareholder Qingliang Zhang, and Ms Wang. The Authority determined to adjourn the substantive application in favour of issuing a preliminary determination confirming Ms Lin's employment status. A preliminary determination was issued finding the real nature of the relationship between Ms Lin and one or both the respondent companies was one of employment.²

[7] A witness statement was provided for Ms Lin. The respondents relied on their statements in reply, which were re-lodged by them in lieu of witness statements. The Authority questioned Ms Lin and Ms Wang under oath or affirmation at the

¹ Pursuant to the Companies Act 1993, section 248(1)(c).

² *Lin v Yoke Insulation Limited (in liquidation) and Ors* [2025] NZERA 64.

investigation meeting on 19 March 2026. Oral and written submissions were received for Ms Lin, Yook and Ms Wang after the investigation meeting.

[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.³

Issues

[9] The issues for investigation and determination are:

- (a) Who was Ms Lin's employer at the relevant times?
- (b) Did the respondent companies breach the Wages Protection Act 1983 (WPA) in making them and failing to remit them to IR?
- (c) What if any monies are owed to Ms Lin?
- (d) If money is owed as a result of breaches of employment standards, is Ms Wang a person involved in those breaches, such that leave should be granted to recover monies from her, in the event the companies are unable to pay them?
- (e) Did the respondent companies breach Ms Lin's employment agreement, and did Ms Wang aid or abet breaches?
- (f) Have the respondent companies failed to provide wages and time and holiday and leave records upon request?
- (g) Should any penalty or penalties be imposed on the respondent companies?
- (h) Does Ms Lin have a personal grievance for disadvantage, due to the respondent companies' failure remit PAYE deductions to IR and advising IR she was a contractor?
- (i) If a personal grievance is established, should Ms Lin be awarded compensation and are there issues of contribution?

Background

[10] Both respondent companies were insulation providers. Ms Wang gave evidence that Yook bought and supplied insulation materials, and Yoke installed them. Ms Lin joined Yoke as an employee in March 2023. It is common ground that she was provided

³ Employment Relations Act 2000, section 174E.

with a written employment agreement with Yoke, although she reports not having been given a copy of it. Yoke has not produced a copy of it to the Authority.

[11] Ms Lin says Ms Wang was involved in the operations of Yoke, and referred to her as a “boss”. Ms Wang denies having much of a role in Yoke. Ms Wang gave evidence that she assisted Yoke with administrative work from time to time, particularly between the departure of a former employee and the arrival of Ms Lin. She says Mr Zhang, who is her domestic partner, asked her to assist with duties at the time. Ms Wang says she was not the owner, controller, or decision-maker of Yoke, and it had its own management structure and personnel. She says she had no involvement whatsoever in the recruitment, employment terms, supervision, or management of Ms Lin. Ms Wang’s position is that Ms Lin’s claims about her involvement are “entirely false, fabricated, and unsupported by any evidence”.

[12] At the investigation meeting, Ms Lin showed the Authority WeChat messages on her phone between Ms Wang and Ms Lin over the course of her employment. Ms Wang had the opportunity to review the messages. The messages were regular and were exchanges about work matters. In a message near the start of her employment in March 2023, Ms Lin provided Ms Wang with her IR number and bank account details. There was also a message in which Ms Wang advised Ms Lin of her company email address and password.

[13] Ms Lin says it was agreed she was to be paid fortnightly as a fulltime employee for \$25 per hour, and normally worked 40 hours a week. Ms Lin says part of her role was to calculate and record her own wages, which Mr Zhang and Ms Wang confirmed was the case. Ms Lin says every pay period she recorded the amount payable to her, and the PAYE amount. Ms Lin has provided these records given to her employer throughout her employment. Both the parties’ bank transaction records mirror the wages and time records Ms Lin has provided, showing she received net pay amounts identified.

[14] Ms Lin, however, says that new work from that time was done by Yook. Yook was recorded in the Xero accounting system as generating invoices for customers. Ms Wang claims Yook would order materials for Yook but on many occasions Yoke failed to pay for the materials, and that is why later Yook asked clients to pay for materials to it directly.

[15] While Ms Wang acknowledges Yook started paying Ms Lin's wages due to Yoke's cashflow issues, she says Yook did not become Ms Lin's employer.

[16] It is common ground Ms Lin did not receive a new written employment agreement from Yook.

[17] Ms Lin reports never receiving a payslip during her employment from either Yoke or Yook. Her bank records show that she was paid by Yook from 24 October 2023.

[18] Ms Lin says in around January 2024 she was considering purchasing a property. She discovered upon logging into her IR account that PAYE tax had not been paid on her income earnings. She reports raising this with Ms Wang, and requesting that the relevant taxes be paid, but the issue was not resolved.

[19] Ms Lin says she persevered working before realising Ms Wang refused to fix the tax problem. At that point, Ms Lin chose to resign. She claims she realised if she wanted to buy a property that she would have to work for another company and sought other employment. 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 arrangement 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 or companies had done 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's last day of work was 24 May 2024.

[22] 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. Ms Wang says Ms Lin was employed to manage wage calculations, time records, and related documentation, and any failure to maintain proper records was her own professional negligence.

[23] 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 emailed Ms Wang acknowledging those payments but queried 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 2024:⁴

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.

[24] At the first 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.

Who was Ms Lin's employer at the relevant times during her employment?

[25] The respondents have contended that Ms Lin only ever worked for Yoke. Ms Lin says she was employed by Yoke and then later on by Yook.

[26] A useful starting point is the documentation evidencing any written agreement between the parties. It was common ground that the employment agreement referred to Yoke as Ms Lin's employer. However, the Authority prefers Ms Lin's evidence as to Yook becoming her employer.

⁴ Emphasis added.

[27] While payment of wages by a particular entity is not conclusive evidence of an employment relationship, in the circumstances Yoke and Yook operated under, as very closely associated companies between Mr Zhang and Ms Wang, with Yook taking on Yoke's responsibilities prior to its liquidation, I find these indicators sufficiently showed Yook became Ms Lin's employer on or about 24 October 2024.

[28] I find Ms Lin was employed by Yoke from 20 March 2023 to 23 October 2024, and by Yook from 24 October 2023 to 24 May 2024.

Did one or both companies breach WPA provisions?

Section 12A – premium

[29] Ms Lin's claim was that the companies' failure to pay PAYE to IR contravened s 12A(2) of the WPA which provides:

(2) Where an employer receives any amount of money in contravention of subsection (1), whether by way of deduction from wages or otherwise, then, irrespective of any penalty to which the employer thereby becomes liable, the person by whom the money was paid or, as the case may be, from whose wages it was deducted, may recover that amount from the employer as a debt due to the person....

[30] The Authority finds that the companies, as Ms Lin's employers, received an amount of money by way of deduction from her wages, when this should have been paid to IR. This constitutes a breach of s 12A.

Section 4 - deduction

[31] It was also submitted for Ms Lin that s 4 of the WPA had been breached. That section says an employer shall, when any wages become payable to a worker, pay the entire amount of those wages to that worker without deduction. An exception to this requirement is when deductions are made for a lawful purpose, e.g. PAYE payments. Deductions were made but not paid by either company to IR. The deductions were not made for a lawful purpose (remitting to IR) and were therefore unreasonable. The Authority agrees that the companies also breached s 4 of the WPA.

What if any monies are owed to Ms Lin?

[32] It appears the PAYE deductions are recoverable under either s 12A or s 11 of the WPA. Ms Lin has provided a breakdown of monies paid to her and calculated what

PAYE has not been paid by the respondent companies, being \$4,414.96 by Yoke and \$2,309.74 by Yook. I find the respondent companies owe those amounts to Ms Lin, who is in communication with IR, and will need remit them to IR.

Is Ms Wang a person involved in employment standards breaches and should leave be granted to recover monies from her, in the event the companies are unable to pay them?

[33] Ms Wang submits it would be unfair and without legal foundation for the Authority to impose personal liability on her. She says it would be unjust and improper to pursue an individual merely because they assisted a financially troubled company and appear to have financial capacity. She says there was no employment relationship with Ms Lin. She says Yook advanced significant sums to Yoke which remain unpaid.

[34] The Authority is satisfied on the evidence that Ms Wang exercised significant influence over the management or administration of the of Yoke, and was a director of Yook at the relevant times. The Authority accepts Ms Lin's evidence that she raised a concern with Ms Wang that PAYE was not being paid on her wages. She knew that PAYE payments were not being made, such that she had knowledge of the essential facts that establish the contraventions of the WPA. The Authority is satisfied she was directly or indirectly knowingly concerned in or a party to the breaches. She was a person involved 142W of the Act. In the circumstances, which include Yoke being in liquidation, it is appropriate to grant Ms Lin leave to recover the PAYE deduction amounts directly from Ms Wang to the extent the respondent companies are unable to pay them.

Did the respondent companies breach Ms Lin's employment agreement, and did Ms Wang aid or abet such breaches?

[35] Ms Lin submits that the respondent companies had an obligation to pay wages in full every two weeks in accordance with their employment agreement. They did not do so. She says this is because the money that was held as PAYE tax should have been remitted to the Inland Revenue Department every month or two months depending on their required submission schedule.

[36] Not having sighted the written employment agreement between the parties, the Authority is not satisfied it can or ought to make a separate finding of a breach of employment agreement under s 134 of the Act.

Have the companies failed to provide wages and time and holiday records upon request?

[37] The Authority accepts that the recovery of any wages in this case has likely been made more difficult by the absence of wages and time records being produced when requested.

Should a penalty or penalties be imposed on the respondent companies?

[38] Ms Lin's representative submitted that both a penalty and compensation can be awarded, but submitted if the Authority believes two awards are not justified in this case, an award of compensation would be of more benefit to Ms Lin. No submissions were received for Ms Lin addressing factors to which the Authority is to have regard in determining an appropriate penalty under s 133A of the Act. In the absence of any submissions for Ms Lin addressing relevant factors in this case, I am not prepared to embark on a penalty assessment in relation to the breaches.

Unjustified disadvantage grievance

The test for justification

[39] In assessing whether an employer's actions are justified, the test is set out in s 103A of the Act and it involves determining whether the employer's actions and how the employer acted were what a fair and reasonable employer could have done in all the circumstances at the time the action occurred.

[40] In addition, a fair and reasonable employer is expected to comply with its statutory obligations which include the good faith obligations which include at s 4(1A)(b) of the Act. These require the parties to an employment relationship to be active and constructive in establishing and maintaining a productive employment relationship in which the parties are, among other things, responsive and communicative. Failure by an employer to comply with these obligations may fundamentally undermine its ability to justify a dismissal or other action "because a fair and reasonable employer will comply with the law".⁵

[41] An unjustified disadvantage personal grievance is set out in s 103(1)(b) of the Act - an employee may have a personal grievance where the employee's employment or any condition of employment is or was affected to the employee's disadvantage by

⁵ *Simpsons Farms Ltd v Aberhart* [2006] ERNZ 825 (EmpC) at 842 [65].

some unjustified action by their employer. Based on s 103(1)(b), the questions to be addressed are:

- (a) What does Ms Lin complain of in terms of the companies' actions and did they act as alleged?
- (b) If so, did the companies' actions cause any disadvantage to Ms Lin's employment or a condition of her employment?
- (c) If so, were the companies' actions unjustified?

[42] Ms Lin has established that the respondent companies failed to make PAYE deductions throughout the course of her employment. She has also shown that due to the arrangement regarding the payment of tax herself near of the end of her employment, she was misclassified as a contractor by IR. During her employment the failure to remit PAYE caused Ms Lin difficulties. I accept it also contributed to her decision to resign from her employment. Employers bear a duty to deduct and remit PAYE to IR by specified due dates. The respondent companies' failure to do so in Ms Lin's case breached that duty, with such actions clearly being unjustified. Ms Lin has established an unjustified disadvantage grievance.

Should Ms Lin be awarded compensation and are there issues of contribution?

[43] Ms Lin seeks compensation under s 123(1)(c) of the Act. In assessing whether an award should be made for humiliation, loss of dignity and injury to feelings, the Authority must quantify the emotional harm and loss arising out of the unjustified actions.⁶

[44] It was submitted that while there was no impact on Ms Lin immediately, when she approached a financial institution for a loan she was advised there was no record of her earnings for because no earnings and PAYE records had been submitted by either Yoke or Yook to IR. As a new migrant looking to establish herself in New Zealand with her partner, she refers to the stress she has been under as a result of having a tax liability.

[45] At the first 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

⁶ *Richora Group Ltd v Cheng* [2018] NZEmpC 113.

from her salary/wages, although the Authority understands this has not yet occurred. She also says the issue around her tax records has recently impacted her ability to secure a visa for her parents, who were unable to travel to New Zealand as a result.

[46] Having considered similar cases and the situation as experienced by Ms Lin an award of \$8,000 in compensation under s 123(1)(c)(i) is appropriate. Liability for that amount is to be shared equally between Yoke and Yook.

[47] There is no basis for reducing this remedy for contribution under s 124 of the Act. Ms Lin performed the function that was required of her to calculate her wages and PAYE. She was not responsible for ensuring PAYE deductions were then paid by her employers.

Outcome

[48] Yoke Insulation Limited (in liquidation) is to pay Dongyan Lin (AKA Chloe Lin) within 21 days:

- (a) \$4,414.96 as a debt for a premium payment/unlawful deduction;
- (b) \$4,000 as compensation under s 123(1)(c)(i) of the Act.

[49] Yook Insulation Limited is to pay Dongyan Lin (AKA Chloe Lin) within 21 days:

- (a) \$2,309.74 as a debt for a premium payment/unlawful deduction;
- (b) \$4,000 as compensation under s 123(1)(c)(i) of the Act.

[50] Leave to recover the premium payment/unlawful deduction amounts at [48](a) and [49](a) above from Yanfen Wang is granted to the extent Yoke Insulation Limited (in liquidation) and Yook Insulation Limited are unable to pay those monies.

Determination to be provided to Official Assignee and Inland Revenue

[51] 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

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

[53] If the parties are unable to resolve costs, and an Authority determination on costs is needed, the Ms Lin 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, the respondents 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.

[54] 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.

Sarah Blick
Member of the Employment Relations Authority