

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2026] NZERA 303
3403044

BETWEEN FULLDIP SINGH
 Applicant

AND VEHICLE DIRECT LIMITED
 (IN LIQUIDATION)
 First Respondent

AND MUHAMMAD WASEEM
 Second Respondent

Member of Authority: Rachel Larmer

Representatives: Applicant in person
 Second Respondent in person

Date of Investigation Meeting: 14 May 2026 in Auckland

Date of Oral Determination: 14 May 2026

Written Record of Oral
Determination: 18 May 2026

WRITTEN RECORD OF ORAL DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] The applicant, Mr Fulldip Singh, was employed by the first respondent, Vehicle Direct Limited (In Liquidation), as a Yard Assistant from 20 February 2024 until 17 August 2025. The second respondent, Mr Muhammad Waseem, is the first respondent's sole director and shareholder.

First respondent's liquidation and receivership

[2] The first respondent was placed into liquidation by a shareholder's special resolution on 4 September 2025. The Liquidator's first report was dated 11 September 2025. The Liquidator's second report was dated 7 April 2026.

[3] The Liquidator emailed Mr Singh's previous advocate on 26 March 2026 advising that:

- (a) There were no funds available in the liquidation.
- (b) The secured creditor had appointed a Receiver to realise any company assets that were subject to a General Security Agreement.
- (c) They had asked Mr Waseem to provide the first respondent's employment records, including Mr Singh's employment agreement and timesheets but these had not been provided.

[4] The first respondent went into receivership on 9 September 2025. The Receiver's first report was dated 14 November 2025. The receiver's next report is due on 16 May 2026.

Mr Singh's claims

[5] Mr Singh claimed he was owed wage arrears of \$10,275.00 because he was not paid for 275 hours of work he had done, for two public holidays and for 15 days of annual leave. Mr Singh claimed this amounted to 411 hours work that he said should have been paid at the rate of \$25.00 per hour.

[6] The Liquidator did not agreed to these Authority proceedings against the first respondent continuing, so it was not involved as a party in this investigation meeting.

[7] Because the first respondent is in liquidation, Mr Singh sought leave from the Authority pursuant to s 142Y(2) of the Employment Relations Act 2000 (the Act) to recover his wage arrears and other money from Mr Waseem personally, on the basis the first respondent had defaulted on paying him and was not going to be in a position to pay him in future.

Mr Waseem's position

[8] Mr Waseem agreed Mr Singh had not been paid for the work he had done over the period 31 July - 17 August 2025, but he disputed the number of days and hours Mr Singh claimed he had worked. Mr Waseem disputed that Mr Singh had worked any of the additional hours he had claimed that had not been recorded on timesheets, and submitted for payment to the first respondent in the normal way before Mr Singh's employment had ended.

[9] Mr Waseem acknowledged Mr Singh was not paid his annual holiday pay or for the two alternative days' leave he had not used for working on two public holidays, when his employment ended.

[10] Mr Waseem said Mr Singh was not paid because the first respondent's business failed.

The Authority's investigation

[11] The Authority held an in-person investigation meeting (IM) in Auckland.

[12] Mr Singh had been represented by an advocate who withdrew on 13 May 2026 but had confirmed to the Authority Mr Singh was aware of the IM the following day and would be attending in-person.

[13] The beginning of the investigation was delayed by thirty minutes because Mr Singh did not appear. When the Authority Officer contacted him by phone, Mr Singh said he had forgotten about the IM but could not attend later that day because he was working. Mr Singh said he was the only person at his work on 14 May 2026, which meant he could not leave and because he was the only person there and he had to serve customers, he was unable to participate in the IM remotely.

[14] Mr Waseem, who has been experiencing long-term ill-health, attended the IM in person. He has found Mr Singh's claims and these proceedings stressful. Mr Waseem believed these were adversely affecting his health, so he did not want to return for an IM on another day. Mr Waseem had engaged in these proceedings in the hope they could be resolved as soon as possible.

[15] Clause 12 of Schedule 2 of the Act permits the Authority to proceed with an investigation meeting if a party fails to attend.

[16] The Authority considered the most efficient way of resolving the parties' employment relationship problems was to proceed with the IM, on the basis Mr Waseem could be questioned about Mr Singh's disputed hours of work. The determination of this matter was also going to depend on an analysis of the employment documentation rather than the parties' oral evidence.

[17] The Authority questioned Mr Waseem under affirmation. He was taken through the employment documentation and other evidence the parties had lodged, as well as the relevant sections in the Act and Holidays Act 2003 (the HA03).

[18] The Authority and Mr Waseem calculated the various amounts Mr Singh was owed during the IM, so agreement was reached about those matters by the conclusion of the IM. Accordingly, Mr Singh's absence did not adversely affect the Authority's ability to objectively assess the merits of his claims.

Issues to be determined

[19] The following issues are to be determined:

- (a) What wage arrears is Mr Singh owed?
- (b) Should interest be awarded on any wage arrears?
- (c) Did the first respondent breach employment standards?
- (d) Is Mr Waseem 'a person involved in a breach of employment standards', as defined by s 142W of the Employment Relations Act 2000 (the Act)?
- (e) Should Mr Singh be given leave to recover from Mr Waseem personally any wage arrears and other money the first respondent has defaulted on paying him?
- (f) What wage arrears should Mr Waseem be ordered to pay Mr Singh?
- (g) What costs and disbursements should be awarded?

What wage arrears is Mr Singh owed?*Mr Singh's statement*

[20] In his unsigned witness statement, Mr Singh claimed he had worked 275 hours without being paid, for which he said he was to be paid \$25.00 per hour. Mr Singh also claimed two days alternative holidays and his annual holiday pay entitlements had not been paid. Mr Singh withdrew his previous claim to be paid out his accrued sick leave entitlement.

[21] Mr Singh provided timesheets for the period 31 July to 13 August 2025 in which he claimed to have worked 7.5 hours each day for 14 days in a row. These timesheets were signed by him but not by his manager.

[22] Mr Singh also attached a schedule to his witness statement which claimed he had worked 11.5 hours on 13-15, 18, 20-22 and 25-27 August 2025, 12 hours on 16, 23 and 24 August 2025, 8 hours on 17 August 2025 and 11 hours on 19 August 2025. These hours were not supported by timesheets.

Hours he worked but has not been paid for

[23] Mr Singh's last pay covered the hours he had worked up to and including 30 July 2025. There was no dispute Mr Singh had not been paid for the 14 days' work he had done from 31 July to 13 August 2025.

[24] Mr Singh's employment agreement said he would be provided with at least 25 hours work a week, which would be allocated to him by roster. The Schedule that was attached to Mr Singh's employment agreement recorded that the first respondent was open seven days and its normal business hours were from 9am to 6pm. Mr Singh could be required by his manager to work on any of those days, as "set by the Employer in advance in accordance with a roster".

[25] Mr Singh recorded his daily working hours on a timesheet that had to be signed by his manager before being submitted to payroll for payment. However, that did not occur for Mr Singh's working hours from 31 July 2025 until his employment ended on 27 August 2025, because his manager was no longer working for the first respondent and no-one had replaced him.

[26] Mr Singh therefore signed his own timesheets for the two weeks' period ending on 13 August 2025 but did not submit any timesheets after that.

[27] The timesheets he submitted for the period ending 13 August 2025 showed he had worked 7.5 hours for 14 days in a row over the period 31 July to 13 August 2025. That occurred before Mr Waseem had put the first respondent into liquidation. The Authority therefore accepted the days and hours of work Mr Singh had on the timesheets he had submitted, because that information was not corrected by the respondents at that time, meaning when the timesheet was submitted.

[28] Section 130 of the Act requires an employer to keep and produce on request legally compliant wage and time records for its employees. Prior to the IM, the Authority directed the respondents to produce a copy of Mr Singh's wage and time records but that did not occur.

[29] Mr Waseem said the Liquidator had them, but the Liquidator denied that, saying it had asked Mr Waseem to provide these, but he had not. Mr Waseem elected to put the first respondent into liquidation so he could have secured and passed the wage and time records to the Liquidator but apparently did not do so.

[30] The absence of wage and time records meant the Authority could rely on s 132(2) of Act to accept Mr Singh's evidence about the days and hours he had worked and what he had been paid unless that evidence was provided to be incorrect.

[31] Mr Waseem was given an opportunity during the IM to establish that Mr Singh's evidence about the hours he had worked over the period 31 July to 13 August 2025 was

incorrect. However, Mr Waseem acknowledged he had no evidence to be able to do so. Mr Waseem could not tell the Authority what days and hours Mr Singh had actually worked over that period, because there was no record of that. Nor was there any record of the business being closed on any of the days Mr Singh said he had worked up to and including 13 August 2025.

[32] That was significant because it was the respondents who effectively controlled when Mr Singh would work, because according to his employment agreement it had to roster his days and hours of work. Mr Waseem informed the Authority that there was no roster information available to establish that the information on the timesheets Mr Singh had submitted was incorrect.

[33] The Authority accepted the days and hours recorded on the timesheets Mr Singh had submitted to the first respondent while employed, even though they had not been co-signed by his manager as required. Accordingly, the Authority was satisfied that Mr Singh likely worked 105 hours for which he has still not yet been paid.

[34] Mr Singh was to be paid \$23.50 per hour, so he is owed \$2,467.50 for hours he had worked according to his timesheets for which he has not been paid.

[35] However, the hours that Mr Singh claimed to have worked from 13 – 27 August 2025 were not accepted as having been proved on the balance of probabilities. Mr Waseem's evidence to the Authority, which Mr Singh was aware of prior to the IM, established that Mr Singh's evidence of the additional hours he had claimed he had worked was more likely than not incorrect. Accordingly, Mr Singh's evidence about additional work hours that had not been recorded in timesheets submitted before the employment had ended was not accepted by the Authority.

[36] Mr Singh could not have worked until 8.30pm or 9pm on multiple days as he had claimed because the business closed at 6pm. It was also significant that Mr Singh had not recorded these hours on a timesheet, so these were never submitted to the first respondent for payment in the usual way before the employment relationship had ended. The additional hours came up for the first time as part of his Authority claim.

[37] An examination of the payslips provided during the course of Mr Singh's employment for the period 20 February 2024 to 30 July 2025 (75 weeks) established he had worked 2,166

hours in total, which worked out on average to approximately 29 hours per week. That aligned with the 25 hours per week that was recorded in clause 7.2 of his employment agreement.

[38] It was unlikely Mr Singh would have been rostered to work the excessive number of hours he had claimed to have worked at a time when the businesses' failure was imminent. It was also unlikely Mr Singh would have agreed to have worked such excessive hours for the first time in the 18 months he had been employed in the two weeks immediately following him (for the first time) not being paid any wages. Mr Singh would likely have known that the first respondent's business was in serious financial difficulty.

[39] Mr Singh knew that Mr Waseem had disputed that he had been rostered to work or had in fact worked these additional hours from 14 – 27 August 2025. Notwithstanding that, Mr Singh did not provide any evidence to explain who had rostered him to work these hours or what work he claimed he had done or why he had suddenly been required to work 77 hours per week for the period 14-20 August 2025 or 81.5 hours for the period 21-27 August 2025.

[40] Accordingly, to Mr Singh, he had worked from 31 July to 27 August 2025 without a day off, without being paid and without raising that as an issue. No explanation was given for why his hours and days of work had significantly increased at the same time the business was failing.

[41] The Authority accepted Mr Waseem's evidence that Mr Singh was not rostered to work these additional hours he had claimed he had worked but which had not been recorded on a timesheet. Mr Singh was therefore entitled to be paid wage arrears for 105 hours that were recorded on his timesheets but not for the additional hours that were not recorded on a timesheet or submitted to the first respondent in the normal way.

[42] Mr Singh's claim that he should be paid \$25.00 per hour for the hours he had worked but had not been paid was not accepted. Mr Singh's employment agreement recorded his hourly rate as \$23.50 per hour. Mr Waseem said he had not been given a pay rise since he had started work.

[43] Prior to the IM Mr Waseem had pointed out that Mr Singh was paid \$23.50 per hour not the \$25.00 per hour he had claimed. However, Mr Singh did not address that in his evidence. Accordingly, there was no evidence produced to the Authority that established Mr Singh was to be paid \$25.00 per hour instead of his contractual rate of pay which was \$23.50

per hour. Mr Singh's arrears are therefore to be calculated based on a rate of \$23.50 per hour not \$25.00 per hour.

Unpaid alternative holidays

[44] Mr Singh worked on two public holidays, so he received two alternative day holidays for doing so, as per s 56 of the HA03. Mr Singh had not used these two alternative holidays before his employment ended so he was entitled to be paid for them in his final pay. There was no dispute that had not occurred.

[45] Section 60 of the HA03 required these two alternative holidays to be paid at not less than Mr Singh's relevant daily pay or average daily pay. Section 9 of the HA03 defines relevant daily pay. Section 9A of the HA03 defines average daily pay. Because Mr Singh's daily work hours varied the average daily pay calculation was to be applied to calculate his alternative holidays.

[46] Because Mr Singh's daily pay varied the formula in s 9A(2) of the HA03 applied. This resulted in a daily pay of \$176.25 multiplied by two days totalled \$352.50 gross, as the amount Mr Singh was owed as public holiday entitlement arrears for his two days of unpaid alternative holidays.

Annual holiday pay arrears

[47] There was no dispute that Mr Singh had not been paid any annual holiday pay when his employment ended. This consisted of two different components, being his accrued but unused annual holiday up to his leave anniversary date plus eight per cent of his gross earnings from his leave anniversary date to the end of his employment.

(i) Accrued annual holiday

[48] Mr Singh's last payslip for the pay period ended 13 July 2025 recorded that he was owed 15 days accrued annual leave. A cross-check of all his payslips determined that he had used five days of paid annual holiday, so that figure of 15 days annual leave owed to him was accurate.

[49] Section 24 of the HA03 required Mr Singh to be paid the greater of his ordinary daily pay as at the end of his employment or his average weekly earnings during the 12 months immediately before the end of the past pay period before his employment ended.

[50] The greater calculation was his ordinary weekly pay, which was calculated in accordance with the formula in s 8(2) of the HA03. That resulted in a daily rate of \$198.28 multiplied by 15 days accrued annual leave which meant Mr Singh was owed \$2,974.20 accrued annual holiday pay arrears.

(ii) Annual holiday entitlement from his leave anniversary date

[51] Section 25 of the HA03 applied to the calculation of Mr Singh's annual holiday entitlements from his leave anniversary date until the end of his employment. These should have been paid to Mr Singh on termination of his employment, but that did not occur.

[52] Mr Singh started work on 20 February 2024, so his leave anniversary date was 20 February 2025. Based on Mr Singh's payslips and wage arrears claim he was paid (or should have been paid, had he been paid correctly and on time) gross earnings of \$26,291.37.

[53] Mr Singh did not take any paid annual holidays in advance. His gross earnings as defined by s 14 of the HA03 included all payments his employer had to pay him under the terms of his employment agreement. That included payment for the two alternative holidays, and for his accrued annual holiday pay as calculated in s 24 of the HA03 plus the wage arrears he should have been paid.

[54] The gross earnings calculation recorded in the MYOB Ace Payroll printout Mr Singh lodged included his last two weeks of work (as that had been captured on his timesheets) but had not included the \$352.50 he was owed for his two alternative holidays or \$2,974.20 he was owed as accrued annual holiday pay.

[55] Mr Singh was therefore entitled be paid \$2,369.45 as eight per cent of his gross earnings of \$29,618.07 (being \$26,291.37 wages plus \$352.50 alternative holiday pay plus \$2,974.20 accrued annual holiday pay arrears).

Total annual holiday pay arrears

[56] Mr Singh was owed total annual holiday pay arrears of \$5,343.65 gross (being \$2,974.20 under s 24 plus \$2,369.45 under s 25 of the HA03).

Finding on the wage arrears claim

[57] Mr Singh is owed total wage arrears of \$8,163.65 gross, being:

- (a) \$2,467.50 for hours he worked but was not paid.
- (b) \$352.50 alternative holiday pay arrears.
- (c) \$5,343.65 annual holiday pay arrears.

Should interest be awarded on Mr Singh's wage arrears?

[58] Mr Singh has been deprived of the use of money that he should have been paid on 20 August 2025 which was the date his final pay should have been paid to him based on the usual fortnightly pay run. It was therefore appropriate for him to be awarded interest on his total wage arrears of \$8,163.65.

[59] Interest is to be calculated using the Civil Debt Interest Calculator on the Ministry of Justice website. Interest is to run from 20 August 2025, which would have been the date he was paid his final pay had it been paid to him on time, until the full amount outstanding, including the interest he has been awarded in this determination, has been paid to Mr Singh in full.

[60] Interest of \$231.06 on Mr Singh's wage arrears of \$8,163.65 is payable for the period 20 August 2025 up to and including the date of this determination. Interest continues to run from 16 May 2026 until Mr Singh has been paid in full, on the total amount due of \$8,394.71 (being \$8,163.65 wage arrears plus interest of \$231.06 up to 15 May 2026).

Did the first respondent breach employment standards by not paying Mr Singh correctly or on time, in breach of s 4 of the Wages Protection Act 1983 (the WPA)?

[61] Section 5 of the Act defines "employment standards", which involves breaches of specified minimum code legislation. This includes (among other things) the minimum entitlements under the HA03, the requirement to keep and produce wage and time records, and the provisions of the Wages Protection Act 1983 (the WPA).

[62] The first respondent engaged in the following breaches of employment standards:

- (a) Section 4 of the WPA by failing to pay Mr Singh for the last two weeks he had worked.
- (b) Sections 24, 25, 27(2) and s 60(2)(b) of the HA03.

(c) Section 130 of the Act.

Was Mr Waseem ‘a person involved in a breach of employment standards’, as defined by s 142W of the Act?

[63] Mr Waseem, as the first respondent’s sole director, was ‘a person who was involved in the breaches of employment standards’ that occurred, as defined by s 142W of the Act. Mr Waseem was the sole person who was responsible for ensuring the first respondent met its minimum code obligations. However, he failed to take the necessary steps to ensure that had occurred. Mr Waseem was therefore directly involved in the first respondent’s breaches of employment standards.

Should Mr Singh be given leave to recover from Mr Waseem personally any wage arrears and other money the first respondent has defaulted on paying him?

[64] The first respondent is unable to pay Mr Singh any of the wage arrears and other money (being the interest he has been awarded by the Authority) it owed him.

[65] Accordingly, Mr Singh is given leave pursuant to s 142Y(2) of the Act to recover from Mr Waseem personally the \$8,394.71 (wage arrears plus interest to date) that he is owed and which the first respondent has defaulted on paying him.

How much is Mr Waseem ordered to pay Mr Singh?

[66] Within 28 days of the date of this determination, Mr Waseem is ordered under s 142Y(1) of the Act to pay Mr Singh the \$8,394.71 he has been awarded for wage arrears and interest on those wage arrears up to and including the date of this determination.

What costs and disbursements should be awarded?

[67] Mr Singh has been represented by an advocate up until the day before the IM, so he has actually incurred legal costs and a filing fee for this matter.

[68] As the successful party, Mr Singh is entitled to be paid a contribution toward his actual legal costs. The notional daily tariff for a one-day IM is \$4,500.00. This matter involved one hour of IM time. Accordingly, on a pro rata basis Mr Waseem is ordered to contribute \$750.00 towards Mr Singh’s actual legal costs and to pay him \$71.55 to reimburse his filing fee.

[69] The award of costs of \$750.00 to Mr Singh reflected that the notional daily tariff was set to include attendance at the investigation meeting and any submissions that may be required. However, Mr Singh did not incur such costs because he was not represented at the IM and he

did not lodge any submissions. It was therefore appropriate to reduce the half-day notional starting tariff from \$2,250.00 to \$750.00 to reflect that.

Outcome

[70] Within 28 days of the date of this determination, Mr Waseem is ordered to pay Mr Singh \$9,216.26 gross, consisting of:

- (a) \$8,163.65 gross wage arrears.
- (b) \$231.06 interest on his wage arrears up to the date of this determination.
- (c) \$750.00 contribution towards his actual legal fees.
- (d) \$71.55 to reimburse his filing fee.

[71] Mr Waseem is also ordered to pay Mr Singh ongoing interest on any part of the \$8,394.71 that remains outstanding from 16 May 2026 onwards until it has been paid in full. Interest is to be calculated using the Civil Debt Interest Calculator on the Ministry of Justice website.

Rachel Larmer
Member of the Employment Relations Authority