

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

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

[2026] NZERA 357  
3370784

BETWEEN WAYNE BLACKBOURN &  
REBECCA MALONE  
Applicant

AND TRUSTEES OF  
COIREBHRECAIN TRUST  
First Respondent

AND TONY KURIGER  
Second Respondent

Member of Authority: Geoff O’Sullivan

Representatives: Kelly Coley, advocate for the Applicants  
No appearance for the Respondent

Investigation Meeting: 31 March 2026 by Audio Visual Link

Submissions Received: 31 March from Applicant  
None from the Respondents

Determination: 8 June 2026

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1] The Applicants claim they are owed arrears of wages by the Trustees of the Coirebhrecaín Trust (the Trust). They say the Trust has also failed to provide wage and time records, and holiday and leave records, in breach of both s 130 of the Employment Relations Act 2000 (the Act) and s 82 of the Holidays Act 2003 (HA). Further, Mr Blackbourn says that he was not paid properly for working on public holidays and both Mr Blackbourn and Ms Malone say the Trust failed to pay KiwiSaver employer contributions from late-October 2022 in breach of s 101B of the KiwiSaver Act 2006.

[2] Mr Blackbourn and Ms Malone seek a compliance order against the Trust for the arrears owed together with penalties for the breach of statutory obligations.

[3] Although the Trust and Mr Kuriger had been served the Statement of Problem, a Notice of Direction, and a Notice of the Investigation Meeting, there was no engagement by the Respondents with the Authority's process.

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

[4] The Authority heard evidence from Mr Blackbourn and Ms Malone who had also filed written Briefs of Evidence. The hearing was held by Audio Visual Link (AVL) and both Mr Blackbourn and Ms Malone affirmed their evidence.

[5] At the beginning of the investigation meeting, it was noted that Mr Kuriger did not join through the AVL link. As a result, I decided to delay the commencement of the investigation meeting for 15 minutes to see whether Mr Kuriger wished to participate but was having difficulties joining. After 15 minutes had passed and Mr Kuriger had not contacted the Authority, I decided because the documentation and Notice of Hearing had been served on him, he was choosing not to participate and accordingly decided that the meeting should proceed.

### **Background**

[6] Mr Blackbourn and Ms Malone are partners in a relationship and were employed by the Trust on a farm in Woodville until their employment ended on 31 May 2024. Mr Blackbourn was employed on a fulltime basis for around six years whilst Ms Malone was employed on a seasonal basis over a four year period.

[7] The identity of all the Trustees in the Trust has been difficult to establish, mainly in part because there has been no engagement by the Trust. The Second Respondent, Mr Kuriger, is, however, a Trustee and as such is jointly and severally liable in respect of the Trust carrying out its rights and obligations. It seems likely that Mr Kuriger is the only Trustee of the Trust.

[8] Generally, despite the joining of the Trustees to the Coirebhreacain Trust as First Respondent, it is the Trustees personally, who should be the First Respondent. Because Mr Kuriger was joined as Second Respondent, and is a Trustee, perhaps the only one, he is strictly speaking not a Second Respondent but is the First Respondent and at least one of the Trustees.

[9] Both Mr Blackbourn and Ms Malone were enrolled in the KiwiSaver scheme initially and had employer contributions paid up until late-October 2022 when this suddenly ceased.

[10] Mr Blackbourn gave evidence that he was not paid correctly for work performed on public holidays as required by s 50 and 56 of the HA.

[11] When the Applicants' employment ended on 31 May 2024, Mr Blackbourn was advised by Mr Kuriger that although he was owed approximately \$7,000, he would have to wait until 15 June 2024 to have this paid because Mr Kuriger stated he could not afford to pay this earlier. However, when Mr Blackbourn's employment terminated, he received a figure of \$2,186.44.

[12] Ms Malone was also short paid she says by some \$300.

[13] Both Mr Blackbourn and Ms Malone then made repeated attempts to contact Mr Kuriger regarding their wage payments, without success.

[14] On 16 September 2024, the Applicants' representative wrote to Mr Kuriger requesting wage and time records. No response was received.

## **Conclusion**

[15] I am satisfied from the evidence presented by the Applicants that the claims they have set out are due and owing.

[16] In respect of Ms Malone, I find she is owed the following amounts:

- (a) A sum of \$300 representing the amount Ms Malone was short paid in her final pay; and
- (b) A sum of \$1,073.79 being the KiwiSaver contribution from the Trust which has not been made.

[17] In respect of Mr Blackbourn, he is owed the following:

- (a) The sum of \$3,199.22 representing the KiwiSaver contribution the Trust should have made; and
- (b) The sum of \$4,813.56 being the amount Mr Blackbourn has been short paid.

[18] I have been asked to consider a penalty for the Trust's breach in not providing wage and time records, and breaches of s 75(2)(c) of the HA, s 101B of the KiwiSaver Act 2006, and s 134(2) of the Act.

[19] The Trustees of the Trust are jointly and severally liable for any order the Authority makes. As I am uncertain as to who those Trustees are other than Mr Kuriger, I decline to make a penalty at this point.

### **Orders**

[20] Mr Kuriger as the known Trustee of the Coirebhreacain Trust is ordered to make the following payments:

- (a) Mr Kuriger must pay Mr Blackbourn one sum of \$3,199.22 as the Trust's contribution to his KiwiSaver; and
- (b) The sum of \$4,813.56 (less PAYE) on account of unpaid wages and holiday pay;

[21] Mr Kuriger must pay to Ms Malone;

- (a) The sum of \$300 (less PAYE) on account of the shortfall in her final pay; and
- (b) The sum of \$1,073.79 in respect of the contribution to KiwiSaver the Trust should have made but has not.

### **Costs**

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

[23] If the parties are unable to resolve costs, and an Authority determination on costs is needed, Mr Blackbourn and Ms Malone 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 Mr Kuriger 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.

[24] 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>1</sup>

Geoff O’Sullivan  
Member of the Employment Relations Authority

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<sup>1</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)