

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2026] NZERA 94
3387706

BETWEEN	DIEDERIK VAN HEERDEN Applicant
AND	LONGEVITY CONSTRUCTION LIMITED First Respondent
AND	ANTHONY CORIN Second Respondent

Member of Authority: Rachel Larmer

Representatives: Nita Sadie, advocate for the Applicant
Mr Corin for the Respondents

Investigation Meeting: 20 February 2026 at Auckland

Determination: 23 February 2026

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] The applicant, Mr Diederik van Heerden, has applied for compliance orders against his former employer, the first respondent Longevity Construction Limited (Longevity), and Longevity's sole director, Mr Anthony Corin who is the second respondent.

[2] The Authority has issued two determinations in this matter:

- (a) The substantive determination - *van Heerden v Longevity Construction Ltd and Corin* dated 16 April 2025.¹

¹ *van Heerden v Longevity Construction Ltd and Corin* [2025] NZERA 217.

- (b) The costs determination – *van Heerden v Longevity Construction Ltd and Corin* dated 26 May 2025.²

The Authority's orders

The substantive determination

[3] The Authority in its the substantive determination found that Longevity had unjustifiably dismissed Mr van Heerden and had breached the Wages Protection Act 1983 (the WPA) and his employment agreement by failing to pay him correctly or on time for the work he had done on 28 February 2024.³

[4] A \$1,000.00 penalty was imposed on Longevity for its breaches of the WPA and of Mr van Heerden's employment agreement, with \$500.00 of the penalty to be paid to Mr van Heerden and \$500.00 of the penalty to be paid to the Crown bank account.⁴

[5] Mr Corin was found to have aided and abetted Longevity's breaches of Mr van Heerden's employment agreement. A penalty of \$1,000.00 was imposed on Mr Corin under s 134(2) of the Act, with \$500.00 to be paid to Mr van Heerden and \$500.00 of the penalty to be paid to the Crown bank account.⁵

[6] Longevity was found to breached employment standards regarding Mr van Heerden's employment and Mr Corin was held to be 'a person involved in a breach of employment standards.' Mr van Heerden was granted leave to recover from Mr Corin personally any wage arrears or other money that Longevity had defaulted on paying him.⁶

² *van Heerden v Longevity Construction Ltd and Corin* [2025] NZERA 294.

³ *van Heerden*, above n1, at [96], [30], [31] and [119].

⁴ *van Heerden*, above n1 at [32] and [126].

⁵ *van Heerden*, above n1 at [48]-[51].

⁶ *van Heerden*, above n1 at [119] and [121].

[7] Longevity was ordered to pay Mr van Heerden remedies for his unjustified dismissal totalling \$206,138.47, consisting of:⁷

- (a) \$166,153.85 gross lost remuneration under s 128(3) of the Employment Relations Act 2000 (the Act) which was less than his actual lost remuneration.
- (b) \$4,984.62 gross as the Compulsory Employer Contribution to KiwiSaver (the CEC) on his award of lost remuneration, which was awarded as a lost benefit under s 123(1)(c)(ii) of the Act.
- (c) \$35,000.00 without deduction awarded as distress compensation awarded under s 123(1)(c)(i) of the Act for his unjustified dismissal.

[8] Longevity and Mr Corin were ordered to pay the penalties that had been imposed on them within 28 days of the date of the substantive determination.⁸

[9] Within 28 days of the date of the substantive determination, Longevity was ordered to pay Mr van Heerden a total of \$207,408.59, consisting of:⁹

- (a) \$500.00 as part of the penalty imposed on it for its breach of the WPA;
- (b) \$770.12 gross wage arrears for the hours he had worked on 28 February 2024 but not been paid for.
- (c) \$206,138.47 total remedies awarded to him for his successful unjustified dismissal grievance claim.

[10] Longevity was also ordered to pay interest on any part of the \$207,408.59 Mr van Heerden had been awarded that remained outstanding from 15 May 2025 onwards. Interest on the amount outstanding was ordered to run from 15 May 2025 until Longevity had paid Mr van Heerden in full.¹⁰

[11] Because Longevity had paid Mr van Heerden \$770.12 for the wage arrears he had been awarded that amount has to be deducted from the total award of \$207,408.59, giving an outstanding amount Longevity still owes Mr van Heerden of \$206,638.47.

⁷ *van Heerden*, above n1 at [119].

⁸ *van Heerden*, above n1 at [119], [120], [123] and [124].

⁹ *van Heerden*, above n1 at [121].

¹⁰ *van Heerden*, above n1 at [122] and [123].

[12] Interest awarded by the Authority is to be calculated using the Civil Debt Interest Calculator on the Ministry of Justice website.

The costs determination

[13] The Authority's costs determination dated 26 May 2025 ordered the respondents, on a joint and several liability basis, to contribute to Mr van Heerden's actual legal costs as he was the successful party.¹¹

[14] The respondents were ordered within 28 days of the date of the costs determination to pay \$6,684.05 towards Mr van Heerden's costs and disbursements, consisting of:¹²

- (a) \$6,612.50 GST inclusive, as a contribution towards his actual legal costs.
- (b) \$71.55, to reimburse his filing fee.

[15] The imposition of costs on a joint and several liability basis meant that Longevity and Mr Corin are equally responsible for paying the costs Mr van Heerden has been awarded by the Authority. If one respondent cannot pay any costs then Mr van Heerden is able to recover the costs he has been awarded from the other respondent.

Employment Court proceedings

[16] Longevity challenged the Authority's substantive determination on a de novo basis. The respondents have not challenged the Authority's costs determination. Longevity's challenge has not yet been set down by the Employment Court (the Court) for a hearing.

[17] Mr van Heerden applied to the Court to strike out Longevity's challenge to the Authority's substantive determination, or alternatively to impose conditions on the challenge before Longevity could progress it.

[18] Longevity opposed Mr van Heerden's strike out application.

[19] Longevity applied for a stay of execution of the orders made by the Authority in its substantive determination, pending the outcome of its challenge. Longevity's stay

¹¹ *van Heerden*, above n2.

¹² *van Heerden*, above n2 at [26].

application to the Court did not include an application to stay the costs and disbursements that Mr van Heerden had been awarded on a joint and several liability basis in the Authority's costs determination dated 26 May 2025.¹³

[20] Mr van Heerden opposed Longevity's application for a stay execution of the Authority's substantive determination.

[21] Longevity's stay application and Mr van Heerden's strike out application were heard together by the Court on 10 October 2025. The Court's decision was issued on 5 December 2025.¹⁴

[22] At the time the Court issued its decision on the stay and strike out applications, it was aware that Mr van Heerden had not been paid any of the money he had been awarded by the Authority and that he had applied to the Authority for compliance orders against the respondents.

[23] Mr van Heerden's application to strike out Longevity's challenge did not succeed.

[24] The Court granted a conditional stay of the Authority's substantive determination provided, within 28 days of the date of the Court's decision, Longevity paid into Court the amounts it had been ordered by the Authority to pay Mr van Heerden. These funds were to be held on interest-bearing deposit. Longevity was also required to pursue its challenge diligently.

[25] The Court ordered that if the amounts Longevity had been ordered by the Authority to pay Mr van Heerden were not paid into Court in full within the specified timeframe, then Mr van Heerden was free to enforce the Authority's determinations.

[26] No payments have been made into Court. Nor has Mr van Heerden been paid anything.

[27] On 13 February 2026 Mr van Heerden applied to the Employment Court for security for costs and for an order that Longevity's challenge be stayed until security was provided.

¹³ *van Heerden*, above n2.

¹⁴ *Longevity Construction Ltd and Corin v van Heerden & Williams* [2025] NZEmpC 261.

[28] On 19 February 2026 the respondents applied to the Employment Court for its urgent removal of the condition it had imposed on the stay in its decision dated 5 December 2025, which had required Longevity to pay money into Court in order to stay the Authority's determinations. The grounds for this request was that Longevity was unable to pay any money into Court.

[29] These new applications have not yet been heard by the Court, so will need to be dealt with prior to the Court hearing Longevity's challenge. That suggests to the Authority that a Court hearing date for the challenge is not imminent. That means there is no end in sight for Mr van Heerden in terms of receiving the fruits of his Authority proceedings if a compliance order was not issued in his favour.

Creditors' Compromise Proposal

[30] In or around April 2025 one of Longevity's creditors who was initially owed \$40,000.00 applied to the High Court to put Longevity into liquidation. This creditor's debt had apparently increased to \$60,000.00 as a result of interest and the costs of debt recovery by the time Mr Corin put forward the Creditors Proposal to Longevity's creditors on 9 April 2025.

[31] The original liquidation application to the High Court was made before the Authority had issued its determinations in Mr van Heerden's proceedings.

[32] Mr Corin prepared a Creditors Compromise Proposal dated 9 April 2025 pursuant to s 230 of the Companies Act 1993 in order to avert Longevity's liquidation. The Compromise Proposal was accepted by all of Longevity's creditors apart from Mr van Heerden and another former Longevity employee Mr Robert Williams, as Mr Corin had proposed that Longevity's creditors (excluding Mr Williams and Mr van Heerden) would receive all of the money it owed them.

[33] Mr Williams and Mr van Heerden found out about the Compromise Proposal shortly before it was due to be voted on. Mr Williams and Mr van Heerden were both listed as "Contingent Creditors" in the Compromise Proposal, but it did not record the amounts they had been awarded by the Authority. Instead the amounts they were owed were recorded as "to be determined". However, by the time the creditors voted on the Compromise Proposal in June 2025 these amounts had already been determined by the Authority.

[34] The Compromise Proposal Mr Corin prepared on 9 April 2025 was not updated prior to the creditors voting on it. Longevity's 27 other creditors therefore did not know how much Mr Williams and Mr van Heerden had been awarded by the Authority when they voted on the Compromise Proposal on 24 June 2025, even though the Authority had issued its substantive determinations for these two employees on 16 April 2025 and the costs determinations for them on 26 May 2025.

[35] Mr Williams had been awarded in excess of \$74,000.00 excluding the accruing interest he had been awarded. Mr van Heerden been awarded in excess of \$274,000.00 excluding the accruing interest he had been awarded. Longevity had therefore been ordered by the Authority to pay these two employees in excess of \$348,000.00 plus accruing interest.

[36] The "Statement to Accompany Notice of Compromise Proposal" which was Appendix A of the Compromise Proposal, as required by s 229(2)(b) of the Companies Act 1993, also failed to refer to the amounts Longevity had been ordered to pay Mr Williams and Mr van Heerden.

[37] The Compromise Proposal was agreed to by three preferential creditors, being Inland Revenue and two of Longevity's former employees (not Mr Williams or Mr van Heerden) as well as Longevity's 25 unsecured creditors. The total debts these creditors claimed as at April 2025 exceeded \$752,500.00. Adding what Mr Williams and Mr van Heerden are owed brings Longevity's debts to in excess of \$1.1 million, excluding the accruing interest they have been awarded, or which other creditors (such as IRD) may be claiming.

[38] Mr Corin told the Authority the total owed to all of Longevity's creditors was approximately \$915,210.00 as at 22 January 2026, which was the amount he has recorded in the "Financial Statement of Judgment Debtor" he made to the District Court on that date.

[39] However, that was less than the total claimed by the creditors covered by the Compromise Proposal that the Compromise Managers provided the Authority on 13 February 2026, if what Mr Williams and Mr van Heerden are owed is added to the total amount all of Longevity's creditors have claimed they are owed.

[40] The Creditors Compromise Proposal anticipated that Longevity would receive:

- (a) \$1,346,7054.78 as a construction debt it was owed by Warren Apartments Limited (in Receivership) (“WAL”) for the construction work Longevity had done on the Warren apartments development. This debt would be paid by WAL to Longevity once WAL had sold the 10 apartments Longevity had constructed for WAL.
- (b) Almost \$393,000.00 from a litigation debt it had against Beachcroft Apartments Limited Partnership (in Receivership) (“Beachcroft”) arising from Beachcroft’s alleged breach of its contractual obligations to Longevity.

[41] Longevity also noted in the Compromise Proposal that it had a potential breach of contract damages claim estimated to be around \$1.9 million against Beachcroft, which went into receivership on 2 October 2025. Mr Corin confirmed that Longevity’s potential litigation against Beachcroft would not be occurring due to Beachcroft’s receivership.

[42] Mr Corin confirmed that the Beachcroft litigation debt money was received but had subsequently been dissipated so is not available to Longevity’s creditors.

[43] Mr Corin is the sole director of WAL, which went into receivership on 19 January 2026 which posted dated the Compromise Proposal.

[44] The Compromise Proposal anticipated sales of the WAL development would occur by August 2025, However, almost six months later, no sales have occurred and the Authority was told that none of the ten apartments are currently under contract.

[45] Mr Corin told the Authority he did not expect that WAL will go from receivership into liquidation. However, he also said that if WAL was liquidated then Longevity did not expect to recover any of the money WAL owed it, which Longevity was relying on to pay its own creditors.

[46] If the WAL development is sold for less than the amounts required to cover WAL’s lender’s debts plus ongoing interest and costs (including the costs associated with WAL’s receivership) then there will be no funds available for Longevity to disburse to its own creditors.

[47] Mr Corin said that if the ten WAL apartments are sold the funder of the WAL development had agreed to pay Longevity the construction costs it was owed as part of

its construction expenditure. However, what will be realised from the sale of the Warren apartments development, what will be available after the costs of WAL's receivership have been accounted for, and when WAL could repay its debt Longevity (if at all), were as yet unknown factors.

[48] McDonald Vague were appointed as Longevity's Compromise Managers. They told the Authority that the Compromise Proposal had been extended to 4 April 2026 and that it was unknown what affect WAL's receivership would have on it. The Compromise Managers said in their letter to the Authority dated 13 February 2025:

Based on the information we have received to date we anticipate that there will be minimal funds available to creditors. Please note however we have only reviewed documents that have been made available to us and we do not have the same powers of investigation as a liquidator. The proponent for the compromise is the director.

[49] The Compromise Managers also confirmed that Mr Williams and Mr van Heerden are not bound by the Compromise Proposal as their class of creditors (Contingent Creditors) did not vote on it, so the parties voting in that class (who were only Mr Williams and Mr van Heerden) did not meet the necessary threshold.

[50] The original creditor's application to wind up Longevity is back before the High Court on 20 April 2026. The Compromise Managers said that Mr Corin will be providing creditors with an update before then. This update should also be provided to Mr Williams and Mr van Heerden as they are both also creditors of Longevity.

[51] If Longevity is put into liquidation then it will be up to the Liquidator to decide what if any action should be taken against WAL to recover its debt to Longevity for its construction costs on the Warren apartments development. Mr Corin said he did not expect WAL would be paying Longevity anything before its next High Court hearing on 20 April 2026.

Mr Corin's financial situation

[52] Mr Corin has given personal guarantees to six of Longevity's creditors who were covered by the Compromise Proposal, which totalled approximately \$360,000.00. These six creditors had provided Longevity with construction materials it had needed for the Beachcroft construction, which was the project that had resulted in litigation between Longevity and Beachcroft, and the failed Beachcroft development.

[53] Mr Corin said he had also given an unspecified number of other personal guarantees, relating to other projects he, or entities he was associated with, had been involved in, to a number of other unidentified entities. Mr Corin told the Authority these other personal guarantees were for “many millions of dollars.” Mr Corin said it would not become known until those other projects had been completed whether those projects had sustained losses which could be recovered from Mr Corin under his personal guarantees.

[54] Mr Corin had given WAL a personal guarantee, so WAL’s Receiver had discussed that with Mr Corin. Mr Corin considered it unlikely that WAL would call up his personal guarantee, but said that was still under consideration by WAL’s Receiver.

[55] Mr Corin confirmed to the Authority that Longevity had no income, owned no property and that its only asset was the construction debt of \$1,346,705.76 that WAL (In Receivership) owed it.

[56] Mr Corin said WAL’s funder and Longevity had agreed to cap the amount WAL owed Longevity in return for the funder paying Longevity out of the money it received after the apartments had sold. That meant Longevity would be paid ahead of the Joint Venture partner, but as a result of that priority WAL and Longevity agreed no interest would accrue on the construction costs WAL owed Longevity.

[57] Mr Corin is the settlor in two family Trusts but said he is not a beneficiary or trustee in these two Trusts. Mr Corin told the Authority he had not paid any money into these two family Trusts and neither had Longevity.

[58] Mr Corin disclosed in his 11 February 2026 affidavit that he had minimal cash, personal items and furniture/household effects. He confirmed he did not own any real estate or cryptocurrency.

[59] Mr Corin is the sole director of Shorcom Limited (In Liquidation) (“Shorcom”), which went into liquidation on 11 February 2026.

[60] On 18 February 2026 Mr Corin was ordered by the Authority under s 142Y of the Act to personally pay two former employees of Shorcom a combined total in excess of \$38,000.00 excluding accruing interest, which Shorcom had defaulted on paying

them.¹⁵ The total amount Mr Corin must personally pay these two former Shorcom employees exceeds the disclosed value of the assets he recorded in his affidavit dated 11 February 2026.

[61] Mr Corin said he was currently working on deals and setting up business opportunities with others, which he said had nothing to do with construction. If these other activities were successful, Mr Corin anticipated receiving funds he could use to repay debt.

The Authority's investigation

[62] The Authority held an in-person investigation meeting (IM) on 20 February 2026. Mr van Heerden and his wife attended the IM in person along with his advocate Ms Nita Sadie. Mr Corin appeared at the IM in person for the respondents.

[63] Mr Corin and Mr van Heerden both gave evidence under affirmation. They were questioned by the Authority and by the opposing party.

[64] The Authority received a copy of the information the parties had provided to the Court for the stay and strike out applications. Mr Corin made the same arguments to the Authority opposing the compliance order applications as he had made to the Court in support of his stay application. The only real difference was that the respondents' financial position has significantly deteriorated since the Court heard the strike out and stay applications on 10 October 2025.

[65] The Authority witness summonsed information from Longevity's two Compromise Managers. Because the requested information was provided to the Authority prior to the investigation meeting (IM), the two Compromise Managers were released from their witness summonses, so did not attend the IM.

[66] The Authority also posed a number of questions in writing to the Compromise Managers before the IM. These questions were answered by Mr Keaton Pronk in an email to the Authority dated 13 February 2026.

[67] The parties lodged evidence prior to the IM and during the IM. Mr Corin provided an affidavit dated 11 February 2026 that set out his financial position and a

¹⁵ *Eletr v Shorcom Ltd (In Liquidation) and Corin* [2026] NZERA 83 and *Banuna v Shorcom Ltd (In Liquidation) and Corin* [2065] NZERA 85.

Statement of Judgement Debtor he had made to the District Court on 22 January 2026. He also updated that information when questioned about it by the Authority during the IM.

[68] At the conclusion of the evidence, pursuant to s 174B of the Act, the Authority gave the parties an oral indication of its preliminary findings on the compliance order application, which was in Mr van Heerden's favour.

Issues to be determined

[69] The following issues are to be determined:

- (a) Have the respondents complied with the Authority's substantive and/or costs determinations?
- (b) If not, should a compliance order be issued against one or both respondents?
- (c) Should interest be awarded on any amounts that remain outstanding from 24 February 2026 onwards?
- (d) What costs and disbursements should be awarded for this compliance order application?

Have the respondents complied with the Authority's determinations?

[70] Longevity paid Mr van Heerden the \$770.12 wage arrears he was awarded in paragraph [120](b) of the substantive determination for the work he had done on 28 February 2024.

[71] Apart from that one payment of wage arrears, Mr van Heerden has not been paid any of the other money he was awarded by the Authority.

[72] Longevity therefore still owes Mr van Heerden \$219,980.53 (excluding interest on his costs award), consisting of:

- (a) \$206,638.47 as the total outstanding from what he has been awarded in paragraph [122] of the substantive determination, of which \$35,000 of this total amount is a tax free payment.¹⁶

¹⁶ *van Heerden*, above n1 at [122].

(b) \$6,658.01 interest on \$206,638.47 from 15 May 2025 to 23 February 2026, being the date of this determination, as per paragraphs [122] and [123] of the substantive determination.¹⁷

(c) \$6,684.05 pursuant to paragraph [26] of the costs determination.¹⁸

[73] The respondents have not paid the penalties that were imposed on them. Longevity owed a \$500.00 penalty to the Crown. The \$500.00 penalty it owed Mr van Heerden was included in the total \$206,638.47 amount it owed him in paragraph [72](a) above.

[74] Mr Corin has not paid any of the money he has been ordered to pay by the Authority. He still owes the \$1,000.00 penalty imposed on him under s 134(2) of the Act, \$500.00 of which had to be paid to Mr van Heerden, with the remaining \$500.00 of this penalty having to be paid directly to the Crown bank account.

[75] Because Longevity was currently unable to pay the costs that Mr van Heerden was awarded, Mr Corin is responsible for doing so because these were awarded on a joint and several liability basis. Accordingly, Mr Corin owes Mr van Heerden \$6,684.05 for the costs and disbursements he was awarded in the Authority's costs determination.¹⁹

Should a compliance order be made against one or both respondents?

[76] Mr Corin said Longevity is unable to pay Mr van Heerden the money it has been ordered to pay him, so it will not be doing so.

[77] Mr Corin said there was a risk that Longevity could be put into liquidation at the next scheduled High Court hearing on 20 April 2026. Mr Corin said he is actively working to avoid that occurring but he did not identify where the money will be coming from to pay Longevity's creditors.

[78] Mr van Heerden is Longevity's biggest creditor, with the amount owed to him exceeding the total reportedly owed to Inland Revenue, which is a preferential creditor. The Authority considered there was a high risk Longevity's potential assets could be

¹⁷ *van Heerden*, above n1 at [122] and [123].

¹⁸ *van Heerden*, above n2 at [26].

¹⁹ *van Heerden*, above n2 at [26].

fully dissipated before the Employment Court is able to issue a decision on Longevity's challenge, which is likely to be some months away.

[79] The Authority was satisfied that Mr van Heerden will not be paid anything by Longevity unless the requested compliance orders were issued. Mr van Heerden's evidence is that he is in dire financial straits as he has not been able to secure new employment despite his best efforts to do so.

[80] Mr van Heerden told the Authority the litigation with the respondents had completely broken him, physically, mentally and emotionally. His wife and family have also suffered and were continuing to suffer as a result of that.

[81] Mr van Heerden described the significant stress he is under as a result of not having obtained new employment. He attributed his diagnosis last week as having now become "disabled" partly to the high level of stress he has experienced in his dealings with the respondents. Mr van Heerden emphasised he needed to be paid what Longevity owed him as soon as possible.

[82] Mr van Heerden is entitled to the fruits of his litigation against Longevity. He is also entitled to be paid the \$500.00 penalty Mr Corin owes him.

[83] Mr van Heerden's last day of work for Longevity was on 28 February 2024. He was found to have been unjustifiably dismissed by the Authority and awarded remedies on 16 April 2025. He remains unpaid. In the meantime, Mr van Heerden has continued to incur escalating legal costs which he can ill afford in connection with his litigation with the respondents.

[84] Mr Corin said a compliance order will prevent Longevity from continuing with its challenge of Mr van Heerden's substantive determination. However, that is not the case. These compliance orders will not prevent Longevity from continuing its challenge.

[85] If Longevity's challenge succeeds and the Court finds that Longevity should not have to pay Mr van Heerden anything, or less than he was awarded by the Authority, then Longevity can take enforcement action against Mr van Heerden to recover any overpayment that may have occurred. Mr van Heerden and his wife are aware of that.

[86] The respondents have not complied with the costs order made against them on 26 May 2025 and they are not going to do so voluntarily.

[87] Because costs were awarded on a joint and several liability basis, Mr Corin is required to pay Mr van Heerden the costs he was awarded on 26 May 2025 which remain unpaid. That will only occur if a compliance order is issued. Mr van Heerden's application for compliance orders against the respondents succeeds.

The Authority's compliance orders

[88] In accordance with the Authority's power under s 137(2) of the Act, within 28 days of the date of this determination:

- (a) Longevity is ordered comply with paragraphs [119], [121](a) and (c), [122] and [123] of the Authority's substantive determination dated 16 April 2025:
- (b) Longevity's compliance with these paragraphs in the Authority's substantive determination means it has been ordered to pay Mr van Heerden:
 - (i) \$213,296.48 up to the date of this determination, which excludes the costs Mr van Heerden was awarded and the wage arrears of \$770.12 which he has now been paid. The amount of \$213,296.48 includes \$206,138.47 remedies, \$500.00 partial penalty and \$6,658.01 interest up to the date of this determination.
 - (ii) Interest on any part of the \$213,296.48 that remains outstanding from 24 February 2026 until all money owed (including interest) has been paid in full.
- (c) Longevity is also ordered to comply with paragraph [124] of the substantive determination by paying \$500.00 of the penalty imposed on it for breaching the WPA to the Crown bank account.
- (d) If Longevity continues to be unable to pay Mr van Heerden the costs he has been awarded by the Authority, then Mr Corin is ordered to comply with paragraph [26] of the Authority's costs determination dated 26 May 2025 by paying Mr van Heerden the \$6,684.05 legal costs he was awarded by the Authority in its costs determination dated 26 May 2025.

- (e) Mr Corin is also ordered to comply with paragraph [120] of the Authority' substantive determination, by paying \$500.00 of the \$1,000.00 penalty imposed on him under s 134(2) of the Act to the Crown bank account and the remaining \$500.00 of the penalty imposed on him directly to Mr van Heerden.

What costs and disbursements should be awarded?

[89] Mr van Heerden as the successful party is entitled to a contribution towards his actual legal costs.

[90] Mr van Heerden has succeeded with claims against each respondent, so it is appropriate that the costs liability be equally apportioned between the two respondents, with Mr Corin being required to reimburse Mr van Heerden for his filing fee.

[91] Accordingly, within 28 days of the date of this determination:

- (a) Mr Corin is ordered to contribute \$1,000.00 towards Mr van Heerden's actual legal costs and to pay him \$71.55 to reimburse his filing fee.
- (b) Longevity is ordered to pay Mr van Heerden \$1,000.00 as a contribution towards his actual legal costs.

Should interest be awarded on the amounts Mr van Heerden is still owed from 24 February 2026 onwards?

[92] Longevity should have paid Mr van Heerden:

- (a) \$207,408.59 by 15 May 2025, but it only paid him \$770.12 of that amount, leaving a balancing owing of \$206,638.47.²⁰
- (b) \$6,658.01 interest on the outstanding amount of \$206,638.47 from 15 May 2025 to 23 February 2026, being the date of this determination, plus continuing interest until the amount he was owed had been paid in full.²¹
- (c) \$6,684.05 for costs and disbursements that should have been paid to him by 24 June 2025.²²

²⁰ *van Heerden*, above n1 [121].

²¹ *van Heerden*, above n1 at [122] and [123].

²² *van Heerden*, above n2 at [26].

[93] Mr van Heerden has been deprived of the use of the money he should have been paid by Longevity as required by the substantive determination and by the respondents jointly/severally as required by the Authority's costs determination. It is therefore appropriate for the respondents to pay Mr van Heerden interest to reflect that they have had the use of his money.

[94] On a joint and several liability basis, the respondents are ordered to pay Mr van Heerden interest of \$180.71 for the period 24 June 2025 to 23 February 2026 (being the date of this determination), on the costs of \$6,684.76 he was awarded on 26 May 2025.²³

[95] This brings the total amount Mr van Heerden is owed by the respondents on a joint and several liability basis under the costs determination to \$6,964.76, being \$6,684.05 costs awarded plus interest of \$180.71 up to the date of this determination.

[96] Accordingly, as at the date of this determination, Longevity owes Mr van Heerden \$220,161.24, consisting of:

- (a) \$213,296.48, being the \$206,638.47 balance outstanding under paragraph [121] of the substantive determination plus interest of \$6,658.01 on that amount from 15 May 2025 to 23 February 2026, being the date of this determination.
- (b) \$6,864.76, being \$6,684.05 he was awarded in the costs determination, plus interest on that amount of \$180.71 calculated from 24 June 2025 (being 28 days after the date of the costs determination) to 23 February 2026, being the date of this determination.

[97] Longevity is ordered to pay Mr van Heerden interest on the total amount of \$220,161.24, or any other amount that remains outstanding, from 24 February 2026 onwards until he has been paid all of the money (including interest) he has been awarded by the Authority.

[98] If Longevity does not pay Mr van Heerden the costs and interest on the costs he has been awarded in this determination, then Mr Corin is ordered to do so, because

²³ *van Heerden*, above n1 at [26].

costs and interest on outstanding costs have been awarded on a joint and several liability basis.

[99] Accordingly, to the extent that Longevity has not paid Mr van Heerden, Mr Corin is ordered to comply with paragraph [26] of the Authority's costs determination dated 26 May 2025 by paying Mr van Heerden costs of \$6,684.05. Mr Corin is also ordered to pay \$180.71 interest from 24 June 2025 to 23 February 2026, being the date of this determination. Therefore the total costs and interest up to the date of this determination that Mr Corin has to pay Mr van Heerden (to the extent Longevity does not pay it) is \$6,864.05.

[100] If Mr Corin pays some or all of the costs and interest Mr van Heerden has been awarded then the amount he has paid is to be deducted from the total amount that Longevity owes Mr van Heerden for costs and interest on outstanding costs, so there is no duplication of these amounts.

[101] Interest awarded in this determination therefore continues to run on the outstanding amounts Mr van Heerden is owed by the respondents until he has been paid in full, including all interest he is owed. Interest is to be calculated using the Civil Debt Interest Calculator on the Ministry of Justice website.

Orders

[102] Within 28 days of the date of this determination, Longevity is ordered to pay the \$221,660.53 it owes as a result of the Authority's determinations. This order requires Longevity to:

- (a) Comply with the Authority's determination dated 16 April 2025 by paying Mr van Heerden \$213,296.48, which includes interest up to the date of this determination.²⁴
- (b) Pay the Crown bank account the \$500.00 part of the total penalty imposed on it for breaching the WPA.²⁵

²⁴ *van Heerden*, above n1.

²⁵ *van Heerden*, above n1 at [124].

- (c) Comply with paragraph [26] of the Authority's costs determination 26 May 2025, to the extent it is able to, by paying \$6,864.05 costs and interest on the costs arrears to Mr van Heerden.²⁶
- (d) Contribute \$1,000.00 towards the actual legal costs Mr van Heerden has incurred for this compliance order application.

[103] Longevity is also ordered to pay Mr van Heerden interest on any part of the \$221,160.53 (which excludes the \$500.00 part penalty to the Crown) he is owed that remains outstanding from 24 February 2026 (being the day after this determination) until it has been fully paid (including all interest) to him. No interest has been awarded on the \$500.00 penalty that Longevity owes to the Crown.

[104] Within 28 days of the date of this determination, Mr Corin is ordered to personally pay Mr van Heerden \$8,436.31, consisting of:

- (a) \$500.00 as part of the penalty that was imposed on him under s 134(2) of the Act for aiding and abetting Longevity's breach of Mr van Heerden's employment agreement.²⁷
- (b) \$6,684.05 costs that were awarded on a joint and several liability basis in the Authority's costs determination dated 26 May 2025, to the extent Longevity is unable to pay all of this amount.²⁸
- (c) \$180.71 interest on the outstanding costs award of \$6,684.05 from 24 June 2025 (being 28 days after the date of the costs determination) to 23 February 20-26 (the date of this determination), to the extent that Longevity is unable to pay this amount.
- (d) \$1,000.00 as a contribution towards the actual legal costs Mr van Heerden's has incurred for this compliance order application.
- (e) \$71.55 to reimburse Mr van Heerden's filing fee for this compliance order application.

²⁶ *van Herden*, above n2.

²⁷ *van Heerden*, above n1 at [120].

²⁸ *van Heerden*, above n2 at [26].

[105] Mr Corin is also ordered to pay Mr van Heerden interest on any part of the \$8,436.31 (as set out in paragraph [104] above) that he has been ordered to pay Mr van Heerden which remains outstanding from 24 February 2026 onwards.

[106] The interest that has been awarded to Mr van Heerden on his outstanding costs award is imposed on a joint and several liability basis only, so if one of the respondent's has paid Mr van Heerden interest on the outstanding costs award to him, then the other respondent is not required to also pay interest on the same amount of outstanding costs.

[107] Interest on the amount Mr Corin owes Mr van Heerden is to run from 24 February 2026 (being the day after this determination) until Mr Corin has fully paid Mr van Heerden the money (including all interest) he has been awarded by the Authority.

[108] Within 28 days of the date of this determination, Mr Corin is also ordered to pay to the Crown bank account the \$500.00 part of the total penalty imposed on him under s 134(2) of the Act for aiding and abetting Longevity's breaches of Mr van Heerden's employment agreement.

Other

[109] At the conclusion of the investigation meeting, the Authority gave the parties a preliminary indication of the findings that would be made on the issues to be determined. Mr Corin said he would be challenging this determination, and that he and Longevity were currently unable to pay Mr van Heerden, so would not be paying him.

[110] A challenge does not operate as a stay of the Authority's determination. The respondents would need to apply to Employment Court for a stay of this compliance order determination.

[111] If Mr Corin and/or Longevity fail to pay Mr van Heerden the money they have been ordered to pay him in this determination, then Mr van Heerden may apply under s 138(6) of the Act to the Court to exercise the powers it has under s 140(6) of the Act.

[112] The Court's powers under s 140(6) of the Act include the discretion to address a party's non-compliance with the Authority's compliance order by:

- (a) Dismissing or staying proceedings in which the person in default is a plaintiff in Court proceedings.

- (b) Striking out the defendant's defence, if the party in default is a defendant in Court proceedings.
- (c) Order the person in default to be imprisoned for a term not exceeding three months.
- (d) Impose a fine of up to \$40,000.00 on the person in default.
- (e) Order that the property of the person in default be sequestered.

Rachel Larmer
Member of the Employment Relations Authority