

*Under the Employment Relations Act 2000*

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND OFFICE**

**BETWEEN** Hui Bao and 3 Others (Applicant)  
**AND** Valerie May Fashions Limited (Respondent)  
**REPRESENTATIVES** Philip Rowe, Counsel for Applicant  
Carl Biss, representative for Respondent  
**MEMBER OF AUTHORITY** Marija Urlich  
**INVESTIGATION MEETING** 28 September 2005  
**DATE OF DETERMINATION** 28 September 2005

**DETERMINATION OF THE AUTHORITY**

**Employment relationship problem**

[1] The applicants, Hui Bao, Jun Ying Li, Min Li and Xiao Dong Yang, were employed by the respondent company, Valerie May Fashions Limited, as machinists producing fashion garments. They worked for the company from 29 December 2003 until 5 February 2005. The applicants' hours of work and hourly rate were identical and their terms of employment were set out in written employment agreements.

[2] The applicants seek arrears of unpaid wages from the third week of November 2004 until 5 February 2005 and unpaid holiday pay. They do not seek interest calculated on these sums.

[3] The respondent was represented at the investigation meeting by Carl Biss. Mr Biss is the husband of the company's sole director Phongsri Seekhot. He said the company does not dispute the figures sought by the applicants.

[4] The applicants requested that the Authority grant urgency to their application. I convened a telephone conference call with the parties on 22 September to discuss that request the result of which was that urgency was granted. By agreement of the parties an investigation meeting was convened today and the timeframe for serving the notice of investigation meeting was abridged accordingly.

[5] I record that I was assisted in this investigation by an interpreter of the Mandarin language.

**Section 134 application**

[6] By application faxed to the Authority on 27 September the applicants sought to join Ms Seekhot as the second respondent to these proceedings. Mr Nguy advised today that the application to join Ms Seekhot is made pursuant to section 134 of the Employment Relations Act. He

suggested that Ms Seekhot could indicate whether she consents to be joined to this application as the second respondent.

[7] I indicated to the parties I could issue the determination in relation to the application for wage arrears and holiday pay today. I do not believe it is in the parties interests to delay the disposal of this application further to enable Ms Seekhot to respond to the application to join her as the second respondent. Further, an application under section 134 would not deal with identical issues or evidential basis as this application.

[8] If the applicants wish to pursue a claim against Ms Seekhot personally under section 134 of the Act they will have to file a separate application.

### **Outstanding wages and holiday pay**

[9] As stated above the respondent company does not dispute it owes the following total wages and holiday pay to the applicants:

Hui Bao	\$5356.50
Min Li	\$6031.50
Jun Ying Li	\$5995.50
Xiao Dong Yang	\$5968.50

[10] I am satisfied the amounts claimed are accurately calculated and are owed to the applicants. I am also satisfied the applicants have made demand on the company for payment of the wage arrears and holiday pay and that the sums remain outstanding.

### **Compliance order**

**[11] In terms of section 137 of the Employment Relations Act 2000, Valerie May Fashions Limited is ordered to pay the following sums of wage arrears and holiday pay to the applicants within 14 days of the date of this determination:**

<b>Hui Bao</b>	<b>\$5356.50</b>
<b>Min Li</b>	<b>\$6031.50</b>
<b>Jun Ying Li</b>	<b>\$5995.50</b>
<b>Xiao Dong Yang</b>	<b>\$5968.50</b>

### **Costs**

[12] Costs are reserved. If the parties are unable to resolve this issue themselves they may apply to the Authority to determine this issue.

Marija Urlich  
Member, Employment Relations Authority