



# Employment Court of New Zealand

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## Juyi International Limited v Pan [2021] NZEmpC 99 (5 July 2021)

Last Updated: 12 July 2021

IN THE EMPLOYMENT COURT OF NEW ZEALAND AUCKLAND

I TE KŌTI TAKE MAHI O AOTEAROA TĀMAKI MAKĀURAU

[\[2021\] NZEmpC 99](#)

EMPC 314/2020

IN THE MATTER OF a challenge to a determination of  
the Employment Relations  
Authority  
AND IN THE MATTER of an application to adjourn the  
hearing  
BETWEEN JUYI INTERNATIONAL LIMITED  
Plaintiff  
AND LONG PAN  
Defendant

**EMPC 94/2021**

AND IN THE MATTER of a challenge to a determination of the  
Employment Relations Authority  
AND IN THE MATTER of an application to adjourn the  
hearing  
BETWEEN LONG PAN  
Plaintiff  
AND JUYI INTERNATIONAL LIMITED  
Defendant

Hearing: (on the papers)  
Appearances: H McDermott, counsel for Juyi International  
Limited L Pan, in person  
Judgment: 5 July 2021

INTERLOCUTORY JUDGMENT (NO 2) OF JUDGE B A CORKILL:

**(Application to adjourn the hearing)**

JUYI INTERNATIONAL LIMITED v LONG PAN [\[2021\] NZEmpC 99](#) [5 July 2021]

### Background

[1] A substantive fixture for the hearing of the above challenges has been scheduled for some time to commence on 6 July 2021; two days have been allocated.

[2] On 1 July 2021, Ms McDermott, now counsel for Juyi International Ltd (Juyi), filed a memorandum stating she had been instructed late that day. She said circumstances had arisen on 29 June 2021, through the resignation of Juyi's previous counsel, Mr Moss.

[3] She said there was a lot of evidence and documents to read and consider, in anticipation of the hearing set to commence on 6 July 2021.

[4] She accordingly requested that the matter be adjourned for two weeks.

[5] Mr Pan opposes the application to adjourn the hearing on the basis of the short notice, and that a Mandarin-speaking interpreter had been arranged by the Court. He claims disadvantage could arise if that arrangement could not be made for a later date. I interpolate that an interpreter could indeed be arranged for a later date, so this is not a critical issue.

[6] On receiving Ms McDermott's memorandum and Mr Pan's response on the morning of 2 July 2021, I indicated via the Registrar that I would be declining the application, giving brief reasons so the parties would know where they stood. I now elaborate on my reasons in this judgment.

## Analysis

[7] The Court must consider the interests of justice.

[8] The case was set down for hearing on 12 March 2021.

[9] Each party has brought a non-de novo challenge to the determination of the Employment Relations Authority.<sup>1</sup>

<sup>1</sup> *Pan v Juyi International Ltd* [2020] NZERA 369 (Member Craig).

[10] Juyi raises an issue to the effect that a holiday pay entitlement was effectively discharged by arrangements it made for the provision of a new kitchen, it being a cabinetry company. The Authority concluded this could not amount to satisfaction of holiday pay entitlements and ordered the company to pay Mr Pan \$12,454.31 as holiday pay. The company claims the Authority erred in making this finding.

[11] For his part, Mr Pan asserts the Authority erred by not finding in his favour with regard to his claim that he should have been paid for the period of 5 March to 30 March 2018, when the company requested him to stay home on unpaid leave as he was available and willing to work. He says he was not put on annual leave or holiday pay.

[12] Second, he asserts he did not receive 15-minute tea breaks from January to March 2019, being a total of 27.5 hours.

[13] In my assessment, the issues are of narrow compass.

[14] Ms McDermott said there was a lot evidence and documents to read and consider. On the face of it, the size of the common bundle previous counsel prepared and filed, might suggest this. However, it contains many documents that the Court will not need to be taken to, including documents relating to previous interlocutory matters. The main documents which will require consideration are the pleadings, fairly short briefs (three as filed by Juyi, and one as filed by Mr Pan) and a small number of relevant background documents.

[15] Previous counsel for the company has also filed a set of submissions, so that its position is apparently recorded already, although Ms McDermott would of course be at liberty to expand or modify those submissions in light of the evidence or otherwise, if she considers that to be necessary.

[16] However, I do not consider the extent of the documentation to be onerous.

[17] In any event, the difficulties to which Ms McDermott has alluded can be mitigated. I indicated on 2 July 2021 I will hear the evidence on 6 July 2021 and receive closing submissions on 7 July 2021.

[18] Weighing the difficulties raised by Ms McDermott on the one hand, and the factors I have identified, the interests of justice persuade me that the fixture should proceed.

[19] There is no issue as to costs.

B A Corkill Judge

Judgment signed at 11.55 am on 5 July 2021