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Pan v Juyi International Limited [2021] NZEmpC 47 (19 April 2021)

Last Updated: 22 April 2021

IN THE EMPLOYMENT COURT OF NEW ZEALAND AUCKLAND

I TE KŌTI TAKE MAHI O AOTEAROA TĀMAKI MAKĀURAU

[\[2021\] NZEmpC 47](#)

EMPC 94/2021

IN THE MATTER OF	a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER	of an application for leave to extend time to file a statement of defence
BETWEEN	LONG PAN Plaintiff
AND	JUYI INTERNATIONAL LIMITED Defendant

Hearing: (on the papers)
Appearances: L Pan, in person
J Moss, counsel for Juyi International
Ltd
Judgment: 19 April 2021

INTERLOCUTORY JUDGMENT OF JUDGE B A CORKILL:

(Application for leave to extend time to file a statement of defence)

[1] Juyi International Ltd (Juyi) has applied for leave to file and serve a statement of defence, since its attempt to do so was one day out of time.

[2] Ironically, this is the second occasion on which a party in this proceeding has needed to seek such leave. In my judgment of 15 March 2021, I granted leave to Mr Pan to bring a late non-de novo challenge.¹

1 *Juyi International Ltd v Pan* [\[2021\] NZEmpC 28](#).

LONG PAN v JUYI INTERNATIONAL LIMITED [\[2021\] NZEmpC 47](#) [19 April 2021]

[3] I directed that Mr Pan file a statement of claim by 18 March 2021. That application was, ultimately, not opposed by Juyi.

[4] Juyi's statement of defence in respect of that claim was due on 24 March 2021. An attempt to take this step was not undertaken until the next day. Unsurprisingly, Mr Pan did not oppose the request for leave made by Juyi.

[5] Mr Moss, counsel for Juyi, filed and served submissions in which he noted the length of the delay was minimal, and that there was no evidence of any prejudice. He said the reason for the delay was due to counsel having made an error in the relevant calculation. This was due to the fact that he opened the email from Mr Pan and the attached statement of claim the day after it was sent. Inadvertently, the calculation as to the due date was made from that day, rather than the date on which the email was sent.

[6] Counsel also suggested the defence has merit, because Juyi would be seeking to uphold the Authority's determination with regard to the issues raised by Mr Pan's challenge.² Because of the minimal delay and the lack of prejudice, I am satisfied this is a case which falls within the category of instances where an assessment of merits is not critical.³

[7] On the first occasion when I considered an application for leave, an indulgence was granted; it is appropriate that a similar approach be taken on this occasion.

[8] In all the circumstances, it is appropriate to grant the application.

[9] On 6 April 2021, I directed the Registrar to advise the parties that I would be issuing a judgment in these terms, which would require the filing of the statement of defence on or before 9 April 2021; this was subsequently extended to 12 April 2021. I am advised the pleading was filed by that date.

2 *Pan v Juyi International Ltd* [2020] NZERA 369 (Member Craig).

3 *Almond v Reed* [2017] NZSC 80, [2017] 1 NZLR 801 at [39(c)].

[10] I make no order as to costs.

B A Corkill Judge

Judgment signed at 3.25 pm on 19 April 2021

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