

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**AA 161A/08
5112387**

BETWEEN YUN YAN TIAN
 Applicant

AND HOLLYWOOD BAKERY
 (HOLDINGS) LIMITED
 Respondent

Member of Authority: Leon Robinson

Representatives: Li Qiang, Advocate for Applicant
 David Liu, Counsel for Respondent

Investigation Meeting: 30 May 2008
 27 August 2008

Determination: 11 September 2008

DETERMINATION OF THE AUTHORITY

The problem

[1] At an investigation meeting held on 17 April 2008 which concerned a warning, I granted leave to the applicant Ms Yun Yan Tian ("Ms Tian") to proceed with a recovery of wages arrears claim. Ms Tian duly lodged an amended statement of problem but she also referred therein to "No written employment agreement". I did not permit that further action and I have not investigated it. I explained this to Mr Qiang and when he was asked what resolution he was seeking in raising the matter he suggested that Ms Tian would be reinstated to her employment. The uninvited "No written employment agreement" reference in an amended statement of claim will not yield an order for reinstatement. I told Mr Qiang that too, as well as that he should take advice. This determination disposes of the recovery of wages claim that I granted leave to Ms Tian to proceed with.

[2] In the circumstances I did not consider that mediation would contribute constructively in the resolution of the problem.

The facts

[3] The amended statement of problem explains a demand by Ms Tian for the total sum of \$4,257.16. That sum has not been explained in any understandable way by me. In any event it has been revised between the investigation meetings.

[4] I have confirmed with Mr Qiang that he now agrees on Ms Tian's behalf that the sum of \$668.80 is the amount claimed by her. The calculation of that sum is set out in an unsolicited memorandum of counsel dated 5 June 2008.

The merits

[5] The amount agreed as in dispute is \$668.80. It is agreed that the amount in dispute arises because of errors in the calculation of PAYE deductions.

[6] I have no authority to interfere with tax deductions. The correction of errors in tax deductions is a matter between Ms Tian and the Commissioner of Inland Revenue.

The determination

[7] **I decline to make any formal orders in this matter. For the avoidance of doubt, I decline to grant the remedies sought in the amended statement of problem dated 24 April 2008. This investigation is now closed.**

[8] Any party seeking costs may submit a memorandum making a case for the same within 7 days of the date of this determination. I will not deal with any application outside that timeframe in the absence of leave.

Leon Robinson
Member of Employment Relations Authority