



# Employment Court of New Zealand

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## Tindall v Winterset Proprietary Limited [2024] NZEmpC 22 (20 February 2024)

Last Updated: 26 February 2024

IN THE EMPLOYMENT COURT OF NEW ZEALAND CHRISTCHURCH

I TE KŌTI TAKE MAHI O AOTEAROA ŌTAUTAHI

[\[2024\] NZEmpC 22](#)

EMPC 422/2023

IN THE MATTER OF	a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER OF	an application for a stay of execution
BETWEEN	SARAH TINDALL Plaintiff
AND	WINTERSET PROPRIETARY LIMITED Defendant

Hearing: On the papers

Appearances: A Fechny, advocate for plaintiff  
F McMillan, counsel for defendant

Judgment: 20 February 2024

### CONSENT INTERLOCUTORY JUDGMENT OF JUDGE K G SMITH

(Application for stay of execution)

[1] On 18 October 2023, the Employment Relations Authority issued a determination resolving the employment relationship problems between Sarah Tindall and Winterset Proprietary Ltd.<sup>1</sup>

[2] Ms Tindall's claims succeeded in part. The Authority ordered Winterset to pay to her \$6,274.42 gross as repayment arising from deductions from wages and a further

\$257.13 gross for public holiday entitlements. Further, the Authority ordered

<sup>1</sup> *Tindall v Winterset Proprietary Ltd* [\[2023\] NZERA 608 \(Member Baker\)](#).

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Winterset to calculate and pay to Ms Tindall two further sums of money, the first arising under [s 28\(4\)](#) of the [Holidays Act 2003](#) and the second to remedy any underpayment of wages by reference to the applicable minimum adult wage rates that applied throughout her employment until 5 November 2020.<sup>2</sup> The method of calculating both amounts was set out in the determination.<sup>3</sup>

[3] Ms Tindall's personal grievance claims for an unjustified disadvantage and constructive dismissal were unsuccessful. She has challenged the determination and in so doing sought a full rehearing.

[4] Winterset has applied for a stay of execution of the proceeding without conditions. Ms Tindall, through her advocate Ms Fechny, has consented to that application.

## Outcome

[5] Given the informed consent provided by the plaintiff, I am satisfied the application can be granted. The Authority's determination is stayed until further order of the Court.

[6] Costs are reserved.

K G Smith Judge

Judgment signed at 2.30 pm on 20 February 2024

2 At [77].

3 At [48].

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