

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

**[2011] NZERA Auckland 425  
5354307**

BETWEEN                      WEI LUN WU  
   Applicant  
  
AND                                JDC NEW ZEALAND CO  
   LIMITED  
   Respondent

Member of Authority:        Eleanor Robinson  
  
Representatives:              Mrs Wu Advocate for Applicant  
   Mr Jin, Director of JDC  
  
Investigation Meeting:        28 September 2011 at Auckland  
  
Determination:                28 September 2011

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**DETERMINATION OF THE AUTHORITY**

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**Application for compliance order**

[1]     The Applicant, Mr Wei Lun Wu, has applied to the Authority under s 137 of the Employment Relations Act 2000 (“the Act”) for an order requiring the Respondent, JDC New Zealand Co. Ltd (“JDC”), to comply with a determination given by the Authority.

[2]     On 23 December 2010 under AA 527/10 the Authority ordered JDC to pay Mr Wu the sum of:

- a.    \$3,000.00 net in respect of annual leave entitlement
- b.    \$2,400.00 net in respect of statutory leave entitlement
- c.    \$3,000.00 compensation in respect of hurt, humiliation and injury to feelings under s.123(1)(c )(i) of the Employment Relations Act 2000 (“the Act”).

[3]     On 23 August 2011 Mr Wu applied to the Authority for a compliance order, claiming that JDC has not paid him the monies he was entitled to under the determination.

## **Compliance Order**

[4] I am satisfied that JDC has not complied with the terms of the Authority's determination of 23 December 2010. It is just in the circumstances for an order to be made requiring JDC to comply with the determination.

[5] JDC is ordered to pay Mr WU \$5,400.00 net in respect of non-payment of annual and statutory leave entitlement, and \$3,000.00 in respect of compensation pursuant to s 123(1)(c)(i) of the Act.

[6] JDC is also to pay Mr Wu \$71.56, the fee on the application for the compliance order.

[7] Mr Wu is seeking reimbursement of the \$56.20 Distress Warrant Fee incurred in attempting to achieve compliance with the monies payable under the Authority's Determination of 23 December 2011 through the District Court. I am satisfied that this amount has been properly and reasonably incurred, and order JDC to pay Mr Wu the Distress Warrant Fee of \$56.20 pursuant to Schedule 2 s 15 of the Act.

[8] JDC is ordered to comply as ordered above within 14 days of service of this determination.

[9] For the information of JDC, failure to comply with an order such as this one made by the Authority under s 137 of the Act may provide a basis for an application to be made by Mr Wu to the Employment Court for enforcement of the order. Under s140 of the Act, where the Court is satisfied that any person has failed to comply with a compliance order made under s137, the Court may order remedies, including a fine not exceeding \$40,000 and/or the seizure of property and for the proceeds of sale to be distributed to the person enforcing the Authority's order.

## **Costs**

[10] As Mrs Wu represented Mr Wu, there is no order for costs.

**Eleanor Robinson**  
**Member of the Employment Relations Authority**