

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2016] NZERA Auckland 149
5596008

BETWEEN SISI YAO
 Applicant

A N D E.W FORMOSA HOLDINGS
 LIMITED
 Respondent

Member of Authority: Rachel Larmer

Representatives: Applicant in person
 Gui Rong Wen, Director of the Respondent

Investigation Meeting: On the papers

Written Record of Oral 17 May 2016
Determination:

**DETERMINATION OF THE
EMPLOYMENT RELATIONS AUTHORITY**

Employment relationship problem

[1] The Authority issued a substantive determination on 03 May 2016¹ which held that Ms Yao was owed wages arrears.

[2] Ms Yao's claim that she had not received her statutory minimum entitlements for working on public holidays was not determined pending further information being filed by the parties.

[3] E.W Formosa Holdings Limited (Formosa) has not complied with the Authority's direction that it provide information about the public holidays Ms Yao worked. Ms Yao has advised the Authority that she does not know what public holidays she worked or when she started or finished work on each public holiday she says she worked or even the total hours worked each public holiday.

¹ [2016] NZERA 137.

[4] The Authority therefore determines this claim based on the information before it. Basically there is no evidence other than Ms Yao's claim that she worked "most public holidays". That in itself is insufficiently specific to allow the Authority to conclude to the required standard what if anything Ms Yao says she is owed.

[5] Accordingly Ms Yao's claim for unpaid public holiday entitlements does not succeed for lack of evidence to support it.

Costs

[6] Neither party was legally represented so there is no issue as to costs.

Rachel Larmer
Member of the Employment Relations Authority