



New Zealand Employment Relations Authority Decisions

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Zhou v Liew and Anor WA 87/06 (Wellington) [2006] NZERA 754 (8 June 2006)

Last Updated: 2 December 2021

Determination Number: WA 87/06 File Number: WEA 396/05

Under the [Employment Relations Act 2000](#)

BEFORE THE EMPLOYMENT RELATIONS AUTHORITY WELLINGTON OFFICE

BETWEEN Zhi Rong Zhou (Applicant)

AND Eddie Liew and Easy Touch NZ Limited (Respondents)

REPRESENTATIVES Robert Foitzik for the Applicant

Eddie Liew for the Respondents

MEMBER OF AUTHORITY P R Stapp

INVESTIGATION MEETING Wellington, 1 June 2006

DATE OF DETERMINATION 8 June 2006

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] The applicant is seeking the payment of outstanding wages in the amount of \$10,553 against the respondents. Mr Liew denies that he personally owes Mr Zhi Rong Zhou the wages claimed but accepts that the applicant is due some of the wages claimed from Easy Touch NZ Limited (the company).

The facts

[2] Zhi Rong Zhou was employed by Eddie Liew, a director of the company, to work for it as a web designer. He started work for the company on 1 February 2005 and continued until 15 July 2005. The applicant says that he requested Mr Liew to pay his wages but was not paid. Mr Liew says that the applicant understood the arrangement for setting up the Company was to develop an idea and help Mr Zhi Rong Zhou who had the skills and who wanted employment. Zhi Rong Zhou told the Authority that upon the commencement of his employment that Ms Hongyu Li, office manager for another company sharing the same office, assisted in the development of a "protocol" to move the business forward.

[3] An employment agreement was signed off on 23 February 2005 by Zhi Rong Zhou and Eddie Liew for and on

behalf of the company. Zhi Rong Zhou's remuneration was \$42,000 per annum. He was not paid.

The evidence and findings

[4] I have accepted Mr Zhi Rong Zhou's evidence in the absence of any wages and time records or any other documents being produced to verify when Mr Zhi Rong Zhou's work ceased, since Mr Liew says Mr Zhi Rong Zhou's work would have ceased at the end of April and or at the beginning of June 2005. Furthermore I accept that Mr Zhi Rong Zhou is more reliable than Mr Liew who has taken no action to properly engage in the investigation process until attending the investigation meeting, and has not provided documents and arranged for any other corroborating evidence. Also the statement in reply provided on 8 November 2005 is questionable. This is because dates relied upon in it conflict with the date Messrs Zhi Rong Zhou and Eddie Liew signed the employment agreement of 28 February 2005. Also, the person who Mr Liew says completed filling out the statement in reply was Mr Chris Weir. Mr Liew made no arrangements for Mr Weir to be present and give evidence before the Authority. It would have been reasonable to expect Mr Liew to make appropriate arrangements for Mr Weir to be present since Mr Liew is a director and given their involvement in Mr Zhi Rong Zhou's employment.

[5] The respondents have not complied with an order of the Authority to produce or make arrangements to produce wage and time records, and have not produced any other documents to assist to corroborate the statement in reply. Mr Eddie Liew has made no attempt to keep any wage and time records secure and in safe custody for appropriate use in proceedings such as these. His failure to make any reasonable arrangements to obtain these documents or at least to make arrangements for them to be produced means he has failed to facilitate the Authority's investigation.

[6] I accept the Mr Zhi Rong Zhou's evidence that he has not been paid and is owed \$10,533 from the Company since it was his employer.

[7] The applicant says Mr Liew has deliberately not paid him and deceived him. The applicant says Mr Liew never intended to pay him and that Mr Liew knew that the Company could not pay either. Zhi Rong Zhou says he was misled and deceived by Mr Liew on the ability of the Company to be able to pay his wages.

[8] Zhi Rong Zhou has not established on the balance of probabilities that Mr Liew misled and deceived him by setting out to avoid paying his wages through Easy Touch NZ Limited that could not pay him. I am supported in my conclusion because Mr Zhi Rong Zhou accepted that the Company was his employer, that he signed the employment agreement in good faith and had time to consider the agreement before signing it. Mr Zhi Rong Zhou and MsHongyu Li were involved in drafting a "protocol" for the development of the Company into a business. I am satisfied that Messrs Zhi Rong Zhou and Eddie Liew probably had some mutual understanding about the circumstances relating to them entering into the employment relationship. Unfortunately the Company later ceased trading and the office was closed. Also the applicant has not assisted his claim by allowing a long period of time to elapse before pursuing any entitlement to his wages. There has been nothing sinister established about the shared office.

[9] I find that Zhi Rong Zhou has not established that Mr Liew misled and or deceived or induced him improperly to enter into an employment agreement as claimed, nor that it would be appropriate to resolve his problem under the Fair Trading Act when it is a matter of arrears and enforcement for unpaid wages.

Conclusion

[10] Easy Touch NZ Limited is to pay to Zhi Rong Zhou the sum of \$10,533 outstanding wages.

[11] There is no claim for costs.

P R Stapp

Member of the Authority