

**IN THE EMPLOYMENT COURT OF NEW ZEALAND  
CHRISTCHURCH**

**I TE KŌTI TAKE MAHI O AOTEAROA  
ŌTAUHAHI**

**[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 Fechney, advocate for plaintiff F McMillan, counsel for defendant
Judgment:	20 February 2024

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**CONSENT INTERLOCUTORY JUDGMENT OF JUDGE K G SMITH  
(Application for stay of execution)**

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[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

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

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 Fechney, 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

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<sup>2</sup> At [77].

<sup>3</sup> At [48].