

Employment law update



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Deducting Wages—Is it Lawful?

The Employment Court recently considered this question in [*GL Freeman Holdings Limited v Livingstone* \[2015\] NZEmpC 120](#). The Employee (Ms Livingstone) resigned from her employment on two weeks' notice. Her Employer (G L Freeman Holdings) withheld her final pay which was otherwise due to her as wages and holiday pay.



The contractual notice period provided was six weeks. A clause in the parties' employment agreement stated that if the employee failed to give the required notice then equivalent wages shall be forfeited and deducted from any final pay including holiday pay.

The issue before the Court was whether this clause in the employment agreement was enforceable in law or in fact if it was in the nature of a penalty to compel performance rather than a genuine assessment of liquidated damages.

The Court found that such a clause was in the nature of a penalty and is not enforceable at law. We are currently in the process of redrafting our current individual employment agreements as a result of this decision.

Please contact us before you seek to rely on any clause in your employment agreements that allow you to deduct or withhold your employee's wages. This may not be lawful and you could be liable to a penalty imposed by the Employment Relations Authority.

Introducing Reyma Hilaga



Reyma joined Goldstein Ryder as our new Case Manager in October 2015. Reyma graduated from the University of Canterbury in April 2015 with a Bachelor of Laws. She was admitted to the bar in July 2015. Reyma is responsible for the day to day running of the office and provides expert case management support to Jeff, Linda and Carolyn. Reyma is always happy to help with any client inquiries and we are delighted to welcome her to our team.

Legislation Update

- The Health and Safety at Work Act 2015 comes into force on 6 April 2016. Are you compliant with your obligations? WorkSafe New Zealand has a range of resources to assist: <http://www.business.govt.nz/worksafe/tools-resources>
- The Employment Standards Legislation Bill proposes to amend New Zealand employment law to add strength to minimum employment rights and standards. The bill is currently before Parliament and will go through the select committee process including public submissions before it is passed into law. Stay tuned.

