

**TITLE OF DECISION: *TE (Skilled Migrant)* [2016] NZIPT 203524**

**INDEX TERMS:**

Skilled Migrant category / Fiji / sales development and distribution manager / INZ declined the application as employer not considered to have good workplace practices / A1.5 / SM7.20 / Employment Relations Act 2000 / Holidays Act 2003 / *QT (Skilled Migrant)* [2015] NZIPT 202225 / *PS (Skilled Migrant)* [2016] NZIPT 203345 / assessment flawed / wages and time record / while some information, required to be recorded by Employment Relations Act (ERA), was not contained in employer's wages and time record, this information could be found in other documents before INZ / section 130 of ERA does not expressly state that required information must be kept in one place / sufficient that requisite information is recorded, maintained and made available on request / Tribunal finds sufficient compliance with ERA / while employer failed to comply with section 130(1)(g) of ERA, subsection was amended only six days before appellant advised of INZs concerns / while incumbent on employer to comply with all immigration and employment law, per SM7.20.b, SM7.20 should be applied with utmost fairness to an applicant / *QT (Skilled Migrant)* [2015] NZIPT 202225, followed / given recent amendment, fair for employer to be given a reasonable opportunity to comply with new law / holiday and leave record / again, given recent legislative amendment, and information in documents provided to INZ, Tribunal finds employer sufficiently complied with Holidays Act requirements / nothing which expressly mandates requisite information be kept in one record / employer's non-compliance limited to two breaches of recently amended legislation / the INZ decision is cancelled and referred back to INZ for correct assessment / section 188(1)(e)

**COUNTRY:**

Fiji

**DATE OF DECISION:**

16 December 2016

**DECISION MAKER:**

Fuiava, P

**JUDICIAL BODY:**

Immigration And Protection Tribunal

**STATUTE:**

Immigration Act 2009

**DATE RESIDENCE APPLICATION MADE:**

20 February 2015

**DECISIONS CONSIDERED:**

*QT (Skilled Migrant)* [2015] NZIPT 202225

*PS (Skilled Migrant)* [2016] NZIPT 203345

**OUTCOME:**

(e) Decision Cancelled, Referred back (incorrect)