

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Tracy Lynette Wanoa (Applicant)

AND Kaiti Mall Liquor Limited trading as Scotty's Bar and Grill
(Respondent)

REPRESENTATIVES Mark Webster, Counsel for Applicant
Nicola Meikle, Counsel for Respondent

MEMBER OF AUTHORITY Leon Robinson

CONSIDERATION ON PAPERS 19 August 2005

DATE OF DETERMINATION 19 August 2005

DETERMINATION OF THE AUTHORITY

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- A. Kaiti Mall Liquor Limited trading as Scotty's Bar & Grill is ordered to comply with the Authority's Consent Determination of 31 March 2005 AA114/05 by paying to Tracy Wanoa the sum of \$3,000.00 by six weekly instalments of \$500.00 to be direct credited to the Trust Account of Rishworth, Wall & Mathieson, Barristers and Solicitors Gisborne for the credit of Tracy Wanoa. This order is to be complied with by Friday 30 September 2005.**
- B. Kaiti Mall Liquor Limited trading as Scotty's Bar & Grill is ordered to pay to Tracy Wanoa the sum of \$70.00 as reimbursement of her lodgement fee.**
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[1] The Applicant Ms Tracy Wanoa (“Ms Wanoa”) informs the Authority the Respondent Kaiti Mall Liquor Limited (“KMLL”) has not met its obligations to her arising under a Consent Determination of the Authority¹ dated 31 March 2005 concerning these parties. Ms Wanoa now asks the Authority to make an order that KMLL comply with the Authority’s Determination.

[2] KMLL was obliged to pay to Ms Wanoa the sum of \$4,000.00 by the end of May 2005. I am satisfied, and it is not disputed, that there is a balance owing to Ms Wanoa. That sum is presently \$3,000.00. KMLL has met its other obligations to Ms Wanoa.

[3] Ms Maree Linda Jeffs (“Ms Jeffs”) is a shareholder and director of KMLL. She deposes to KMLL having significantly reduced turnover for the months of April and May 2005 compared with those same months in the previous year.

[4] Ms Jeffs attributes the reduced turnover to competition from World Café, street fighting outside the Bar, and a recent murder which has discouraged patrons from Gisborne bars. She says trading figures have halved since the murder in early August.

[5] KMLL made an offer to pay off the final instalment by automatic payments to Ms Wanoa of \$500.00 per week. It has made two of those payments and a balance of \$3,000.00 now remains outstanding. KMLL wishes to continue payments in the same manner until the balance is discharged. I accept Ms Jeffs’ evidence of KMLL’s financial difficulties.

[6] Ms Wanoa is unhappy about the proposed weekly payments. She says she does not have any faith in KMLL’s directors and affirms that that she has met her obligations. She asks the Authority to order compliance with the Determination of 31 March 2005.

[7] Despite Ms Wanoa’s obvious annoyance and mistrust, she does not depose to any hardship or prejudice as a result of KMLL’s failures. That is not to say those failures are to be condoned but the issue is relevant in terms of the form any order for compliance might take.

[8] Ms Wanoa is entitled to the benefit of the 31 March 2005 Consent Determination in her favour. I am satisfied that it is proper to order compliance but I am satisfied too, that it is proper that any such order have regard to the financial realities.

[9] Accordingly, **I order Kaiti Mall Liquor Limited trading as Scotty’s Bar & Grill to comply with the Authority’s Consent Determination of 31 March 2005 by paying to Tracy Wanoa the sum of \$3,000.00 by six weekly instalments of \$500.00 to be direct credited to the Trust Account of Rishworth, Wall & Mathieson, Barristers and Solicitors Gisborne, for the credit of Tracy Wanoa. This order is to be complied with by Friday 30 September 2005.**

[10] Ms Wanoa is entitled to have her lodgement fee reimbursed. **I order Kaiti Mall Liquor Limited trading as Scotty’s Bar & Grill to pay to Tracy Wanoa the sum of \$70.00 as reimbursement of her lodgement fee.**

Leon Robinson
Member of Employment Relations Authority

¹ AEA114/05