

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2013] NZERA Auckland 66  
5403789

BETWEEN ALAN JOHN REID, LABOUR  
INSPECTOR  
Applicant

A N D GUY ROBINSON and TANYA  
BRADFORD-ROBINSON t/a  
KOPU ROADHOUSE BAR N  
CAFE  
Respondents

Member of Authority: K J Anderson

Representatives: Alan Reid, Labour Inspector (Applicant )  
Tanya Bradford-Robinson, Advocate for Respondents

Investigation Meeting: On consideration of the papers

Date of Determination: 26 February 2013

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**DETERMINATION OF THE AUTHORITY**

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**Application for a compliance order**

[1] On 17 October 2012, the Authority issued a determination.<sup>1</sup> The outcome was that:

[13] For the reasons set out above, Guy Robinson and Tanya Bradford-Robinson, trading as Kopu Roadhouse Bar N Café, are ordered to pay to the Labour Inspector, for the use of Ms Maia Randall, annual holiday pay of the gross sum of \$302.43. The Labour Inspector is entitled to the sum of \$71.56, being the application fee paid to the Authority. The respondents are also ordered to pay this sum to the Labour Inspector; making a total sum of \$373.99 to be paid not later than 28 days of the date of this determination.

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<sup>1</sup> [2012] NZERA Auckland 376

[2] Via a letter dated 19 October 2012, the Labour Inspector requested payment of the sum of \$373.99 from the respondents. Payment was not received and the Labour Inspector sent a reminder email on 16 November 2012. There has not been any response to either of the communications. The Authority received an application from the Labour Inspector on 29 November 2012, for a compliance order, pursuant to s. 137 of the Employment Relations Act 2000. Also requested is the award of a penalty for a failure to comply with the determination, along with interest on the sum in question; and costs of \$71.56.

[3] The respondents have not responded to the *Statement of Problem*. The Authority attempted to arrange a conference call with the parties<sup>2</sup> for the purpose of discussing the failure to pay the monies in question and how matters could be progressed to a suitable conclusion. Subsequently, the Authority received an email response on 2 February 2013, the general thrust of it is that the respondents intend to liquidate the business in “May” (this year presumably) and: [“...we will be applying for bankruptcy.”] The respondents also indicate their general unhappiness about the decision of the Authority and the role of the Labour Inspector.

### **Determination**

[4] Regrettably, the respondents have not seen fit to participate in any discussion with the Authority as to the actual reason/s for the failure to comply with the determination of the Authority dated 17 October 2012; nor has the determination been challenged (appealed). On the evidence before the Authority, there appears to be no valid reason for the failure to comply with the determination and therefore it is appropriate to grant the compliance order sought by the Labour Inspector.

[5] Pursuant to section 137(1)(b) of the Employment Relations Act 2000, the respondents, Guy Robinson and Tanya Bradford-Robinson trading as Kopu Roadhouse Bar N Café, are ordered to comply with the determination of the Authority and pay to the Labour Inspector, for the use of Ms Maia Randall, the gross sum \$302.43; along with interest at the rate of 5% per annum from 29 November 2012 until this sum is paid. The respondents are also ordered to pay to the Labour Inspector the sum of \$71.56 as set out in the determination dated 17 October 2012. Payment of

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<sup>2</sup> The respondents were not willing to participate.

the total amount of \$373.99 is to be made within 21 days of the date of this determination.

[6] I have given close consideration to imposing a penalty as sought by the Labour Inspector. But given the relatively small amounts involved and the scale of the business I decline to order a penalty in the circumstances. Nonetheless, the respondents should be aware that a determination of the Authority has the status of a Court order and refusal to comply with such is a serious matter indeed for which further remedies are available from the Employment Court; including a fine of up to the sum of \$40,000.

[7] Pursuant to Reg 26 of the Employment Relations Authority Regulations 2000, the Labour Inspector is to be provided with a certificate of determination, sealed with the seal of the Authority recording that the respondents are ordered to pay to the Labour Inspector the sums set out within this determination.

#### **Costs**

[8] The respondents are ordered to pay to the Labour Inspector the sum of \$71.56 being the cost of the fee relating to the compliance order application.

**K J Anderson**  
**Member of the Employment Relations Authority**