

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2015] NZERA Auckland 13
5499470

BETWEEN

HAJIME SOGO
Applicant

AND

BEAGLE BROTHERS
LIMITED TRADING AS
GENJI JAPANESE
RESTAURANT (AUCKLAND)
Respondent

Member of Authority: Vicki Campbell

Representatives: Applicant in person
No appearance for Respondent

Investigation Meeting: On the papers

Determination: 19 January 2015

DETERMINATION OF THE AUTHORITY

- A. Beagle Brothers Limited trading as Genji Japanese Restaurant is ordered to comply with its statutory obligations pursuant to section 130(2) and provide Mr Sogo with access to or a copy of all of the wages and time records relating to his employment within seven (7) days of the date of this determination.**
- B. Beagle Brothers Limited trading as Genji Japanese Restaurant is ordered to reimburse Mr Sogo the \$71.56 filing fee in respect of this application for a compliance order within seven (7) days of the date of this determination.**

Employment relationship problem

[1] Pursuant to section 137 of the Employment Relations Act 2000 (the Act), Mr Hajime Sogo applies to the Authority for a compliance order requiring Beagle Brothers Limited trading as Genji Japanese Restaurant (Beagle Brothers) to provide him with a copy of his wage and time record.

[2] The respondent has failed to engage with the Authority's process at any point. It has not lodged a statement in reply and has not responded to any other communications issued by the Authority.

[3] I am satisfied the Authority has done everything it can reasonably do to advise Beagle Brothers of the application and to give it a proper opportunity to be heard. As I have previously discovered, Mr William Tan as the sole director and shareholder of the respondent is well known to the Authority. Beagle Brothers and Mr Tan have become "frequent flyers" in the Authority and have consistently failed to engage in the Authority process.¹

Background

[4] Mr Sogo was employed by Beagle Brothers as a Head Chef in its Ponsonby restaurant on 18 June 2012. The terms and conditions of Mr Sogo's employment were set out in a written employment agreement. The latest agreement, signed on 7 December 2012 provided for Mr Sogo to be paid \$45,000 by way of annual salary.

[5] Mr Sogo has made numerous requests to Mr Tan seeking copies of his wage and time records by sending him text messages, and emails but, consistent with Mr Tan's approach to the Authority, Mr Sogo's requests failed to elicit any response.

Determination

[6] Beagle Brothers Limited trading as Genji Japanese Restaurant is ordered to comply with its statutory obligations pursuant to section 130(2) and provide Mr Sogo with access to or a copy of all of the wages and time records relating to his employment within seven (7) days of the date of this determination.

¹ *James Denyer (Labour Inspector) v Beagle Brothers Limited* [2014] NZERA Auckland 434; *Yang v Tan* [2013] NZERA Auckland 208; *Lin Zhang v Tan Pacific Limited* [2014] NZERA Auckland 303; *Shubin Wang v Tan Pacific Limited* [2014] NZERA Auckland 347.

Costs

[7] Beagle Brothers Limited trading as Genji Japanese Restaurant is ordered to reimburse Mr Sogo the \$71.56 filing fee in respect of this application for a compliance order within seven (7) days of the date of this determination.

Further non-compliance

[8] The Authority's orders may be the subject of a further application for compliance in the Employment Court which is empowered to impose penalties for continuing non-compliance which include imprisonment, fines and the sequestration of property.

Vicki Campbell
Member of the Employment Relations Authority