

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI
TĀMAKI MAKĀURAU ROHE**

[2024] NZERA 736
3213659

BETWEEN SMART SUSHI NORTHWEST
LIMITED, SMART SUSHI
WYNYARD LIMITED,
SMART SUSHI BRITOMART
LIMITED, SMART SUSHI
MT. WELLINGTON
LIMITED, SMART SUSHI
SYLVIA PARK K. LIMITED,
SMART SUSHI FOOD
SERVICES LIMITED AND
OK JONG JOO AND
MYOUNGSUK
PARTNERSHIP NO 1
Applicants

AND A LABOUR INSPECTOR
Respondent

Member of Authority: Nicola Craig

Representatives: Philip Skelton KC and Tina Hwang, counsel for the
applicants
Tim Gray, counsel for the respondent

Investigation Meeting: On the papers

Submissions and other
information received: 3 and 4 December 2024 from the applicants
3 December 2024 from the respondent

Date of determination: 12 December 2024

SECOND DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] Smart Sushi is the trading name of a family-owned group of companies and a partnership (referred to collectively as Smart Sushi). A Labour Inspector Sanne -Eileen Berkman, issued improvement notices against Smart Sushi businesses.

[2] Most of the steps required by the improvement notices have now been actioned. The parties were in dispute about limited points and the Authority issued a determination (the first determination) deciding those points.¹

[3] In the first determination the parties were given leave to return to the Authority with a proposed variation to the time in the improvement notices.²

[4] The parties now jointly seek a variation to each improvement notices to provide for the applicants to comply with the improvement notices by 30 May 2025.

[5] As noted in the first determination the parties worked well together to get the matter ready for an investigation meeting and aspects of the dispute were resolved up to and through the meeting period. The times for compliance with the improvement notices need to be extended to allow the parties to continue to work through the remediation process.

Orders

[6] The Authority orders, with the parties' agreement, that the improvement notices are varied so that the time for the applicants to comply with those notices is now **30 May 2025**.

[7] For the sake of completeness, the parties retain leave to return to the Authority with a proposed variation regarding time or other matters concerning the notices.

Costs

[8] The parties have reached agreement on the issue of costs so no order is required.

Nicola Craig
Member of the Employment Relations Authority

¹ *Smart Sushi Northwest Ltd & Ors v A Labour Inspector* [2024] NZERA 660.

² Above, at [126].