

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

**AA 59/10  
5291854**

BETWEEN      JEAN-PHILLIPPE CARRERAS  
                         Applicant

AND              BASANI LIMITED    T/A    CLARET  
                         RESTAURANT  
                         Respondent

Member of Authority:    Leon Robinson

Representatives:        Eska Hartdegen, Counsel for Applicant  
                                 No appearance for Respondent

Investigation Meeting:    11 February 2010

Determination:            11 February 2010

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**DETERMINATION OF THE AUTHORITY**

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**The problem**

[1]    The applicant Mr Jean-Phillipe Carreras (“Mr Carreras”) makes application for compliance orders against the respondent limited liability company Basani Limited t/a Claret Restaurant (“Claret”). Compliance is sought with the Authority's determination dated 8 December 2009<sup>1</sup> and an agreement on costs.

[2]    Claret lodged a statement in reply defending the application for compliance. It did not however attend the scheduled investigation meeting today. Its director, Mr Basil Aholelei has sent in an unsworn statement in response to the application. In accordance with the Authority's regulations, I proceeded to act as fully in the matter as if Claret had attended.

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<sup>1</sup> AA438/09, L Robinson

## The non-compliance

[3] Mr Carreras has lodged an affidavit affirming that the orders of the Authority in the determination of 8 December 2009 have not been complied with. He also says that an agreement to pay legal costs of \$3,500 entered into on 11 December 2009 has also not been complied with. This agreement to pay costs is evidenced from correspondence between the lawyers.

[4] Ms Hartdegen confirms to the Authority her instructions that the situation of non-compliance continues today. I accept that from responsible counsel.

[5] Mr Aholelei's advice to the Authority essentially responds that Claret is not presently in funds to meet its obligations the subject of this application. In short, it is said there are cashflow problems.

[6] But I am not provided with any evidence upon which I could construct a pragmatic solution. That is very regrettable.

[7] I accept and find accordingly, that Claret has failed to comply with the Authority's determination and an agreement to pay costs. Mr Carreras is therefore entitled to compliance orders pursuant to sub-sections 137(1)(b) and 137(1)(a)(i) of the *Employment Relations Act 2000*.

## The determination

**[8] I order Basani Limited t/a Claret Restaurant to comply with the Determination of the Authority AA438/09 dated 8 December 2009 and the agreement to pay costs of \$3,500, and to do so by 12 March 2010.**

## The costs

[9] Ms Hartedgen seeks costs on this application. I ask her to lodge and serve a memorandum as to costs within 7 days of the date of this Determination. Claret is to lodge and serve a memorandum in reply within 7 days of being served with the applicant's memorandum.

Leon Robinson  
**Member of Employment Relations Authority**