

*Under the Employment Relations Act 2000*

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND OFFICE**

**BETWEEN** Mathew John Pullin (Applicant)  
**AND** North Shore Taverns Limited (Respondent)  
**REPRESENTATIVES** Mathew John Pullin In person  
Greg Nisbett, for Respondent  
**MEMBER OF AUTHORITY** Marija Urlich  
**INVESTIGATION MEETING** 28 September 2005  
**DATE OF DETERMINATION** 28 September 2005

**DETERMINATION OF THE AUTHORITY**

**Employment relationship problem**

[1] Mathew Pullin seeks an order that the respondent company, North Shore Taverns Limited, comply with the record of terms of a mediator's decision authorised by the parties pursuant to section 150 of the Employment Relations Act.

[2] Mr Nesbitt, the owner of the respondent company, says the mediator's decision has not been complied with because North Shore Taverns Limited is in the process of being wound up as a consequence of the sale of the Mad Dogs and Englishman pub it operated and there is no money left in the company. Further, Mr Nesbitt says North Shore Taverns Limited did not employ Mr Pullin, that Thirty Times Two Limited was the employer, that he made this clear to the mediator and he is at a loss as to why North Shore Taverns Limited has been named as the respondent.

[3] Due to the status of North Shore Taverns Limited this application was dealt with urgently. By agreement the parties attended an investigation meeting today, abridging the timeframe for notice of the investigation meeting to be issued.

**The terms of settlement**

[4] The parties agreed for a mediator to decide whether Mr Pullin had a personal grievance and if so what any remedies should be. The mediator's decision upheld Mr Pullin's claim of unjustified constructive dismissal and awarded him \$3000 pursuant to section 123(1)(c)(i) of the Employment Relations Act 2000.

[5] The terms of that agreement, including the names of the applicant and respondent parties, are clearly set out in a document entitled "Record of settlement (s.149 Employment Relations Act 2000)" which was signed by Mr Pullin and Mr Nesbitt on 15 August 2005. This document identified Mr Nesbitt as the "duly authorised agent for the respondent".

## **Compliance**

[6] The terms of the record of settlement are clear; Mr Nesbitt on behalf of North Shore Tavern Limited, agreed for the mediator to decide liability in relation to Mr Pullin's claim. The mediator assessed liability at \$3000. North Shore Taverns Limited has failed to honour that decision which is binding and enforceable.

**[7] In terms of section 137 of the Employment Relations Act 2000, North Shore Taverns Limited is ordered to comply with the record of settlement entered with Mathew Pullin on 15 August 2005 in the following terms:**

**North Shore Taverns Limited is ordered to pay Mathew Pullin \$3000 within 14 dates of the date of this determination.**

## **Costs**

[8] North Shore Taverns Limited is ordered to pay Mr Pullin \$70 to reimburse the costs of the filing fee incurred in lodging this application in the Authority.

Marija Urlich  
Member of Employment Relations Authority