

IN THE STATUTORY TRIBUNAL, FIJI ISLANDS
SITTING AS THE EMPLOYMENT RELATIONS TRIBUNAL



Decision

Title of Matter: Labour Officer on behalf of Ms Radha Mani (Complainant)
v
Mohammed Farun Lateef trading as Big Cravings Restaurant and Takeaway (Defendant)

Section: Section 45(2) Employment Relations Act 2007

Subject: Failure to produce time and wages records on demand

Matter Number: ERT Criminal Case 35 of 2016

Appearances: Ms v Doge, for the Labour Office
Mr Mohammed Lateef

Date of Hearing: 13 December 2017

Before: Mr Andrew J See, Resident Magistrate

Date of Decision: 15 December 2017

KEYWORDS: Employment Relations Act 2007; Failure to produce time and wages records on demand; Claim for wages

1. The Labour Office has brought a complaint against Mr Lateef for failing to produce upon demand time and wages records, as required by Section 45(2) of the *Employment Relations Act 2007*.
2. The Tribunal is not satisfied that the Labour Office has established to the requisite level of proof required, that the Defendant was the Employer of the complainant Ms Mani at the relevant time period.
3. During proceedings, the Defendant's wife Ms Mainaz Ismail gave evidence that she herself was operating a business that had engaged Ms Mani for a short period of time. According to Ms Mainaz that business name was 'Island of Craving'.
4. While during the course of the proceedings, the Tribunal found Mr Lateef's conduct evasive and bordering on obstructive that in itself is insufficient basis for conviction of an offence under the Act.

5. If there is any case that could be levelled against any person, it appears that it should have been initially directed to Ms Ismail. The Labour Office would of course remain free to pursue her in this regard, should it wish to do so.
6. That being said, in the case of the Defendant Mr Lateef, there is simply insufficient evidence and that matter should be dismissed on that basis.

Decision

It is the decision of this Tribunal that:-

- (i) The complaint against the Defendant be dismissed.



Mr Andrew J See
Resident Magistrate