



DECISION

Fair Work Act 2009

s.394 - Application for unfair dismissal remedy

Mr Alam Shah

v

Real Dairy Production Pty Ltd

(U2025/8683)

DEPUTY PRESIDENT SLEVIN

SYDNEY, 5 SEPTEMBER 2025

Application for an unfair dismissal remedy - no valid reason for dismissal – reinstatement ordered – lost remuneration and continuity of service ordered – translated decision attached

[1] Mr Alam Shah has applied pursuant to s. 394 of the *Fair Work Act 2009* (the Act) for an unfair dismissal remedy. Mr Shah was employed by Real Dairy Production Pty Ltd (**Real Dairy**) from 2 February 2024 to 2 May 2025. Mr Shah performed processing work in Real Dairy’s food processing facility in Greenacre in Sydney.

[2] The application was heard in conference on 21 August 2025. Mr Shah represented himself and Real Dairy was represented by its Human Resources Manager, Ms Muir.

Background

[3] The background to the matter can be briefly stated. Real Dairy contends that on 9 April 2025, Mr Shah was involved in an incident on the factory floor where he was uncooperative and there was a verbal altercation with his supervisor. Ms Muir informed me that this behaviour was relayed to her by Mr Shah’s supervisor. Details of the incident were not provided.

[4] On 17 April 2025, Mr Shah was involved in a workplace accident. He was struck by a forklift. He provided the workers compensation certificates arising from the accident. He had time off work on compensation and returned to work on 28 April 2025.

[5] On 2 May 2025 he received an email dismissing him. The email read:

Hi Alam,

I write to you to advise that we have decided to termination your employment, effectively from today.

We understand that the type of work performed by our Production Team does not suit everyone and for some team members, this is identified very early on in their employment.

Additionally, we have attempted on multiple occasions to move you to different areas of our business to support you and find you appropriate work colleagues and tasks, without success. In accordance with the Fair Work Act 2009 we adhere to our obligations to provide you with the appropriate notice; that being 1 week.

You will however not be required to work this period, and you will be paid in lieu of working this notice period. Your termination date will therefore be recorded as 2nd May 2025.

Any accrued annual leave will be calculated and provided to you in your termination payment which will be processed to you upon termination.

Our best wishes for the future.

Sharon Muir
Real Dairy Australia Pty Ltd Human Resources Manager

[6] Mr Shah said the dismissal came unexpectedly. He was not given prior notice nor any explanation. He states he was not given any opportunity to address any concerns or issues that may have led to the decision to dismiss him. He filed his unfair dismissal application on 19 May 2025.

[7] Real Dairy provided a response to the application in which it asserted that Mr Shah had demonstrated unsatisfactory conduct. He was said to be aggressive, belligerent and non-conforming. It said Real Dairy had raised concerns with Mr Shah on 8 occasions in 10 months culminating in a warning in October 2024. It described ongoing concerns and complaints from supervisors, redeploying Mr Shah on five occasions, and that there was no improvement in his behaviour. It stated that due to his aggression towards others it had no option but to dismiss him.

[8] During the conference, Ms Muir relied upon two statements. One from Mr Shah's supervisor and one from a colleague of Mr Shah. The first statement was unsigned and in very general terms, suggesting that Mr Shah was argumentative and aggressive in his demeanour. It also referred to Mr Shah taking longer breaks than he should. The second statement was contained in an email addressed to Ms Muir. It was brief and amounted to a general statement that Mr Shah was at times argumentative and uncooperative. The statements did not make good the assertions made in the written response to the application.

[9] Ms Muir relied upon events in September 2024 which culminated in a written warning being issued to Mr Shah. The warning arose from a complaint raised about Mr Shah's conduct, which included aggressive and argumentative behaviour against other workers. The complaint was investigated, a disciplinary meeting was conducted, and a first and final warning was issued to Mr Shah. The warning letter indicated that Mr Shah would be moved to another area of the factory as the urgency associated with the work he was performing may have contributed to his behaviour. The warning letter to Mr Shah is dated 14 October 2024. Mr Shah accepted that he was spoken to at the time about his conduct but alleges he did not receive the warning letter. Ms Muir provided an email from 15 October 2024 where she requested that Mr Shah be brought to her office so that she could provide him with the letter. I prefer Ms Muir's account of these events and find that the warning letter was provided to Mr Shah on 15 October 2024.

Consideration

[10] Section 390 of the Act provides that the Commission may order a person's reinstatement, or the payment of compensation to a person, if satisfied that the person was protected from unfair dismissal at the time of being dismissed and the person has been unfairly dismissed.

[11] Section 382 provides that a person is protected from unfair dismissal if the person is an employee who has completed a period of employment of at least the minimum employment period and the person is covered by a modern award, an enterprise agreement applies to the person, or the person earns less than the high-income threshold. It was not contested, and I am satisfied, that Mr Shah is protected from unfair dismissal for the purposes of s. 382.

[12] Section 385 relevantly provides that a person has been unfairly dismissed if the Commission is satisfied of four matters; the person has been dismissed, the dismissal was harsh, unjust or unreasonable, the dismissal was not consistent with the Small Business Fair Dismissal Code, and the dismissal was not a case of genuine redundancy. There is no question that Mr Shah was dismissed. Real Dairy employs 258 employees and is not a small business, so the Small Business Fair Dismissal Code does not apply. It was not suggested that the dismissal was a case of genuine redundancy.

[13] The issue for determination is whether the dismissal was harsh, unjust, or unreasonable.

[14] Section 387 of the Act sets out the matters that are to be considered in determining whether the Commission is satisfied that the dismissal was harsh, unjust, or unreasonable.

[15] Section 387(a) requires a consideration of whether there was a valid reason for dismissal relating to capacity or conduct. Real Dairy contends that Mr Shah was dismissed following an incident on 9 April 2025. It is a conduct related dismissal. In such cases, the Commission must consider the conduct that led to the dismissal and determine whether there was a valid reason for the dismissal.

[16] In these proceedings, Real Dairy have not provided any details of the conduct on 9 April 2025 which led to the dismissal. There is no written material recording complaints about or investigations into Mr Shah's conduct since October 2024. There was no witness account of any incident that could lead to a conclusion that Mr Shah had engaged in conduct that would ground a valid reason for his dismissal on 2 May 2025.

[17] I find on the material before me that there was no valid reason for the dismissal.

[18] Section 387(b) and (c) deal with whether the employee was notified of the valid reason and given an opportunity to respond to the reason. As I have concluded that there was no valid reason, I also conclude that the Mr Shah was neither notified, nor given an opportunity to respond to, a valid reason for dismissal. Indeed, Mr Shah states that he was dismissed unexpectedly and not given a chance to discuss any concerns with his performance or conduct. This account was uncontested.

[19] I find that Mr Shah was not notified prior to the dismissal of the reason for dismissal and was not given an opportunity to respond.

[20] Section 387(d) is directed to whether the employer unreasonably refused to allow the employee to have a support person present to assist at discussions relating to the dismissal. In this case, there were no discussions at all about the dismissal and so no opportunity for Mr Shah to have a support person present.

[21] Section 387(e) requires consideration of whether the employee was warned about unsatisfactory performance before the dismissal. Real Dairy does not rely on unsatisfactory performance of his duties for Mr Shah's dismissal. This factor is not relevant to my consideration.

[22] Section 387(f) and (g) are about to what degree the size of the employer's enterprise was likely to impact on the procedures followed in effecting the dismissal and to what degree any absence of dedicated human resource management specialists or expertise likely impacted the procedures followed in effecting the dismissal. Real Dairy is a medium sized business. In its response to the application, it indicated that it employs over 268 workers in the food processing industry. Ms Muir described the workforce as multicultural with workers from many backgrounds. Real Dairy has a dedicated human resource management specialist, Ms Muir. Ms Muir was involved in Mr Shah's dismissal. Ms Muir considered there was a valid reason to dismiss Mr Shah, but she did not raise that reason with Mr Shah before dismissing him.

[23] The Commission may also take into account other relevant factors under s. 387(h). A number of other factors were raised during the conference. First, that while Mr Shah has Australian citizenship, he is Rohingya. His English is poor. He was assisted in the conference by an interpreter. Second, Ms Muir said that Real Dairy employs a number of employees with similar backgrounds. Her observation was that cultural and language barriers caused some of the tension that was experienced in the workplace. Third, Mr Shah has family in a refugee camp in Bangladesh, and he is working to bring them to Sydney. Fourth, Mr Shah does not drive. He lives a 25 minute walk from Real Dairy, so he did not have to drive. He said it will be difficult for him to find another job that provides the convenience that his job at Real Dairy provided. Fifth, Ms Muir informed me that in her 30 years in human resources roles she has never had to deal with a dispute or dismissal that has come to the Commission.

[24] I consider these factors relevant. The fact that Mr. Shah is Rohingya, with his English skills still limited, provides important context. I find that language and cultural issues exacerbated the situation leading to the dismissal. It is not clear that Real Dairy's directions and warnings were properly understood by Mr. Shah and that even when he was given the opportunity to respond to the concerns raised in 2024, he did not have a genuine opportunity to respond to the allegations or explain his conduct. Mr. Shah's responsibility to support family in a refugee camp in Bangladesh adds to the financial and personal impact of losing his job. The fact that he does not drive and has lost the convenience of having a job walking distance from his home, making his search for new employment much more difficult, imposes an added practical burden on him.

[25] Ms. Muir's 30 years of experience suggest she is not an inexperienced manager. She no doubt has a high level of knowledge about fair dismissal procedures. The procedural aspects associated with Mr Shah's dismissal in the context of the diversity of the workforce at Real Dairy presents some challenge to the company. That challenge however should be better managed by the company having systems in place to accommodate such a diverse workforce effectively. It appears it does not. And while I accept that Mr Shah has, to some extent, been a difficult employee to manage and Real Dairy have, through Ms Muir, made efforts to accommodate Mr Shah's circumstances, including by being empathetic to those circumstances,

it should have done better in communicating its expectations so that Mr Shah was in no doubt about those expectations.

[26] I consider that these additional factors weigh in favour of a finding that the dismissal was unfair.

[27] Taking into account all of the matters in s. 387, I find that Mr Shah's dismissal was harsh, unjust and unreasonable. I find that there was no valid reason, he was denied an opportunity to address the reasons for his dismissal before he was dismissed, and his personal circumstances make his dismissal unfair. On balance, he was treated unfairly by the company in the manner in which he was dismissed.

Remedy

[28] In his application Mr Shah sought reinstatement or compensation. During the conference he said he sought compensation as he was concerned that if he returned to work, he would be dismissed again shortly after returning.

[29] Section 390 provides that where the Commission is satisfied that a person was protected from unfair dismissal at the time of being dismissed, and the person has been unfairly dismissed, it may order the person's reinstatement. The Commission must not order reinstatement if it considers it inappropriate to do so.

[30] In considering whether reinstatement is an appropriate remedy, regard must be had to the legislative object set out in s. 381 of the Act. This includes an emphasis on the remedy of reinstatement and on ensuring that a "fair go all round" is accorded to both the employer and employee concerned.

[31] Mr Shah does not seek reinstatement because he believes he might be dismissed again. Ms Muir opposed reinstatement on the grounds that Mr Shah was not a good cultural fit and that his aggressive manner would continue to be disruptive.

[32] I find it appropriate to award the primary remedy of reinstatement and will order Real Dairy to reinstate Mr Shah. I do not believe that Mr Shah's concern that the company will dismiss him again after he is reinstated to be a valid concern. Ms Muir has engaged in these proceedings in a professional manner and has been frank about the concerns that led to the decision to dismiss. I did not detect any malice in the actions of the company. I do not anticipate that the company will act prejudicially towards Mr Shah. He is to be reinstated to the position he held before the dismissal.

[33] Mr Shah will be aware from these proceedings of the concerns that the company has about his conduct. My decision will be translated and published in Mr Shah's first language to ensure the concerns that led to his dismissal are made clear. Real Dairy will also be aware of the need to ensure that it communicates those concerns to Mr Shah in a way that it is clear so that he understands those concerns.

[34] Section 390 also provides for orders of continuity of service and restoration of lost pay. I consider it is appropriate in this case to also make an order for continuity of service and for

lost pay. Mr Shah has had no earnings since the dismissal. I will make an order for payment of **\$18,035.56** being 20 weeks' pay less one week paid in lieu of notice on account of loss pay. The reinstatement is to take effect fourteen days from today and the order will reflect that.

Conclusion

[35] I find that Mr Shah was unfairly dismissed. I find that it is appropriate that he be reinstated with continuity of service and backpay.

[36] Orders giving effect to this decision will be published separately.

[37] A version of this decision and the associated orders will be published in Rohingya.



DEPUTY PRESIDENT

Appearances:

Mr Alam Shah, the Applicant, on his own behalf.
Ms Sharon Muir for the Respondent.

Hearing details:

21 August 2025
In Person
Sydney

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FAISALA

Fair Work Kanoon 2009

s.394 – Torika no maniyoré hamot tú nēelai diyyē dé yíánor dorhás

Mr Alam Shah

v

Real Dairy Production Pty Ltd

(U2025/8683)

DEPUTY PRESIDENT SLEVIN

SYDNEY, 5 SEPTEMBOR 2025

Torika no maniyoré hamot tú nēelai diyyē dé yíánor dorhás – Nēelai dibár hono wozhá nai – Arek motto golaibar hukum diyyá giyyé – Haráiyé de mozurí ardé hamóot wapes golaibár hukum

[1] *Fair Work Kanoon 2009* (Kanoon) ór s.394 hisabé Mr Alam Shah torika no maniyoré hamot tú nēelai diyyē dé yíánor dorhás tuillé. Mr Shah yé hamot aiccil dé Real Dairy Production Pty Ltd (**Real Dairy**) heçe 2 February 2024 oité 2 May 2025 tarik fáan. Mr Shah yé Real Dairy’r heçe Greenacre Sydney’t food pressing ót ham goritó.

[2] Konferens ót 21 August 2025 tarik dorhás yíán funá giyyé. Mr Shah nize hazír oiyyé ardé Real Dairy torofór tú Human Resors or Menezar, Ms Muir aiccé.

Fisór Hotá

[3] Fisór hotá okkol baitá goriyoré huwá jaibó. Real Dairy hotá mojiin 9 April 2025, Mr Shah tú fektori floor ot ekkadá eksident oil, jeçe niki hibáyé modot no gojíl ardé suparvaisor or fuwantí barabarí hoil. Ms Muir-e more hoiyede Mr Shah’r suparviasoré ítar adotor baabote hibaré funaiyyé. Furassáp kahini nofuná.

[4] 17 April 2025 tarik, Mr Shah hamór jagat ekkadá dúk faíl. Hibár fuanti forklift lói barí haíl. Hibáyé hamór jagát dúk fayyédé hisabé warkar kompansecon sartifiket jomá díil. Kompansecon ór hisabé hibá háamot hazír no óil arde wapes hamot hazir oiyé dé 28 April 2025 tarik.

[5] 2 May 2025 tarik Hibayé hamot tú nēelai diyyé hoi ekkadá email faiyé. Heí emailot léká ase dé:

Hi Alam,

Aaňi tuaňre yían funái diballá said é ki tuaňré añrá hamottú nēelai dibár babote faisalá loiyí, aijjá lotí curú gorí.

Añara jani de ki hár manuce añarar Prodakcon Tim or fuaňti ham goribar laikká no arde híin baze tim member orla no haçe, tuňi ham curu goijo dé ottot yían hot fáa giyé.

Yár baadé, añra tuaňre hoyekmotto hoyek jagat hamót golayyoré onno manucor fuaňti ham goribar baboté seccá gori saiyí, mogor yán kamiyaab noo ó. Fair Work Kanoon 2009 mojin, tuaňre añrá ekkadá nutic díir; yían ioldé 1 haftahr.

Ei ottót tuaňr tú hamot uça no foribó, arde ei nutic diyyá ottot tuaňr tú hamot hazir no oileo suttí hisabé dorá jaibó. Ei ottót tuaňr hamor nēelai dibar tarik 02 May 2025.

Honodillá zomainná suttí thakile hisáp goriyoré arde tuaňr nēelai dibár payment ór fuaňti ekkubaré tuaňre diyyá oibó.

Añra tuaňr mummikkár jindegí cuindoirzzá oibó hoi acá gorir.

Sharon Muir
Real Dairy Australia Pty Ltd Human Resources Manager

[6] Mr Shah ár zuban mojin nēelai diyyé dé yían acá uddá no gore arde asanok oiyé. Hibaré honodillá nutic yakí bujái oré kissú no hóo. Hibayé bujayyedé ki hibaré hono kissu bujai hoibár hono dillá mowká hoi diyyá no jáa noto nēelai dibár uja ki yáan hot faito noo dé. 19 May 2025 tarik hibayé hamottú torika no maniyoré nēelai diyar baabote dorhás tuille.

[7] Real Dairy yé ei dorhás or ekkadá juwab diyyé arde hoiye dé ki Mr Shah yé ham sohih torika mojin no gore yaki gori no faré. Hibayé ráhai hotá bartá hoyyé, ráhai uçe arde norom-gori no maté. Heçe hoiyé de ki Real Dairy had 10 mac ót 8 mottó hibár hamor baboté hotá uittíl ardé akerít jaiyoré Oktobor 2024 jaiyoré bekkulun jomá goriyoré ekkadá huciyari diyya giyyé. Heçe hibár supervisor ór ferecáni kiyor baboté ardé ki loi nakuc híin funaiyé, Mr Shah ré faňs motto jagá bodolaiyé, mogor hibár sal solon ót honodillá beeç hom dehá no já. Heçe aróo huwá giyyé dé ki hibár ráhai uçe dé yianor jorýa hibaré hamot tú nēelai diyá foirzé.

[8] Konfarens ót, Ms Muir duiyán muk zabanir hotá tuillé. Ekkadá Mr Shah'r supervisor ottú ardé arkkadá Mr Shah'r fuaňti ham goroyyár. Foila zobani yianót hono sain nai arde cadacadi vacat likká ase arde endillá hoiyé de ki Mr Shah barbari gore ardé ráhai hotá hóito sá, hibar sal solon hendillá. Heçe aro hoiye dé ki Mr Shah jetukkun jiraibar ottó tar tú waro beckon como ló. Dusrá zobani yán Ms Muir oré diyyá ekkadá email. Yían beci baittä ardé Mr Shah'r baboté cadacida gori liká giyé dé ki hibáyé como como hotá haçahací goré ardé modot no goré. Zobani yíanot endillá doró goriyoré kissu no lekede ki ziyán diyoré niki dorhás yianór baboté cokto goriyoré honodillá hotábartá uci no ayé.

[9] Ms Muir yé September 2024 ot oiyé dé gotoná híin or oré zur diyoré hoiyé dé ki he ottot Mr Shah ré likhát huciyari diyyá giil gotona okkol goittédé híin or baboté. Huciyari diyá giyyé dé Mr Shah'r salsolon or baboté, heçe uitté dé hibár ráhai hotá hoibár baboté ardé onno ham goroyyá okkolór fuaňti barabari goribar baboté. Komplain yaki cekayot yáan saik gorá giil, ekkadá disiplinari miting oil, ardé Mr Shah ré foilá ardé akheri huciyari diyyá giil. Huciyari diyá çiçi yíanot Mr Shah fektorír arekkadá jagát transfar gorá oibo hoi hotá uitté, Hibár salsolon ardé hám or zoriyá toratorí goriyore hendillá gorá giil. Mr Shah ré huciyari çiçi dibar tarik 14 Oktobor 2024. Mr Shah yé he ottót hotá hoiyá hendillá hoi cikár goirzé mogór honodillá

huciyarí ciçi no dé hendillá hoi hitara bonnái gorér hendillá hoiyé. Ms Muir ekkadá email diyoré 15 Oktobor 2024 tarikot Mr Shah ré hibár ofís ót mataiyé dé ciçi diballá yíán fáa giyyé. Ms Muir ór hisabe ei gotona yíán oiyé ardé ekkadá huciyarí ciçi Mr Shah ré 15 October 2024 tarik huciyarí ciçi dibár baoté fáa giyyé.

Hisabát rakoon

[10] Sekcon 390 Kanoon mojin Komicon yé saile hukum díi faré de ki uggá manucoré hamot wapes golai loiballá, noto manuc hibaré gunarí diballá, ze otot niki endillá sabut fáa zaa de ki manuc hibaré hei ottót nahokkot toriká no maniyoré hamottú nēelai diyyá geil.

[11] Sekcon 382 mojin uggá manucoré ham goroyyá hisabé ek otto fán ham gorilé hisabe aiccil ardé modern award ór butoré hibá hamót bázá aiccil, ekkadá enterprise agreement manuc hiballá heçe haça jaibó, notó hei manuc hibayé threshold becí hamai goreddé hendillá oilé. Yianor baboté honokiyá hotá no tulé, ardé áaió yíán loi razi así, dé Mr Shah yé s. 382 mojin nijoré torika no maniyoré hamot tú nēelai diyyé dé hentú hefazót sái faribo.

[12] Sekcon 385 mojin honokiyaré hamottú nahokkot nēelai diyyá gilé Komicon jodicé sair gán mamalá lói raji robot oi fare; manuc hibaré hamot tú nēelai diyyá oiyé, nēelai diyé dé yíán becabecí horá oiyé, borabor nóo ó notó sohih nóo ó, nēelai diyyé dé yíán Small Business Fair Dismissal Code mojin nóo ó, Ardé nēelai diyé dé yíán honodillá hakikot ór redandansí kes nóo. Heçe endillá hono suwal naidé ki Mr Shah ré nēelai dí felaiyé. Real Dairy 258 ham goroyá asé ardé yiyán hono gurgará karbár nóo, otollá Small Business Fair Dismissal Code eçe no haçibó. Endillá dehá jardé ki eí kes ibá hono hakikot ór redandansí kes nóo.

[13] Eçe faisalá luwá foreddé ki ei mamalá yíán becabecí horá oiyé né, borabor nóo ó notó sohih nóo ó hono hendillá né.

[14] Kanun or sekcon 387 mojin komicon óttu sáa foribó dé, ekkadá faisalá loibár agé yian sintá gori saa foribó dé ki mamalá yíán becabecí horá oiyé né, borabor nóo ó notó sohih nóo ó hono hendillá né.

[15] Sekcon 387(a) hisabe hakikot ot Mr Shah ré nēelai dibár ujha fawa giyyé ne yian sáa foribó. Real Dairy bujardé ki Mr Shah ré hamot tú nēelai diyyá giyé dé ki 9 April 2025 taeik ór mamala yian or baboté. Hibár salsolon or zoriyá hibaré nēelai diyé. He ottót, Komicon ottú haká hibaré hamottú nēelai dibár ujhá ki ardé salsolon aar faisala luwa foribo dé ki hendilla soorót ót hamot tu nēelai di fare né.

[16] Eí hamor toriká hisabé funaní ibát, Real Dairy yé 9 April 2025 tarik ki oiyé dé hoi furassáp kahini jomá díi noó fare zýan or zoriyá niki hamottú nēelai diyé. Likha fotrot cekayot ór baboté kissu nai ardé jeçe niki Mr Shah'r salsolon Oktobor 2024 loti hondillá aiccil hoi likha asé. Heçe honodillá gobá hoi nuó aiccil jiyánor joriyá hamottú nēelai diyyá giyé jeçe Mr Shah'r salsolon 2 May 2025 tarik toriká mojin no aiccil hoi hotá uitté.

[17] Añar muuntú zomá diyyé dé sabot mojin hamottú nēelai dibar sohih hono wujhá añi no fáí.

[18] Sekcon 387(b) arde (c) mojin hamwalar fuañti hibár salsolon noto uitthé dé hotá bartar baboté hibaré juwáb dibár hono mowká diyyá no jáa. Añi hoiyidé híin mojin, añi yian hoití sair dé ki Mr Shah ré na funa giyyé, noto juwab dibár mowka diyyá giyé, Je keyallá hamottú hibaré nēelai diyá giyé. Hamaha, Mr Shah funaiyé de ki hibare asanok hamottú nēelai diyá giyé. Yíán ektorfiyá oiyé, arde hoibár kissu náí.

[19] Añi faiyí dé ki Mr Shah ré nēelai dibar agé honodillá hotá funai diyá no já, juwáb dibár mowká no doiyoré hamottú nēelai diyá giyé.

[20] Sekcon 387(d) mojin hono ham goroyár tú modot goroyyá sailé hibré diyá fore iccá goriyoré no fáa fán gori no fare, je ottot niki hamottú nēelai diyá foré. Ei kes ibát, Nēelai dibar agé hono dillá hotá bartá nóo ó ardé Mr Shah ré hotá hoibár honodillá mowká okkol diyá no jáa uggá moddot goroyyá uudá fuwainzá faibár baboté.

[21] Sekcon 387(e) mojin uggá ham goroiyá ré nēelai dibar agé hibár ham sohih toriká loin ó oor dé yianór ekkadá huciyarí diyá foré. Real Dairy yé Mr Shah ré hamottú nēelai dibár agottú hendillá kissu no goré. Añar faisala loibar fuañti yíánor honodillá talukát nai.

[22] Sekcon 387(f) arde (g) mojin hamor jaga hoddúr dor oilé hondillá soorót or wore tarar nijor ham solé ardé kabil manucor zorurot ase ardé hon ottot haká hamottú hamwa goroyyáré nēelai diyá fore híin bujáí diyá asé. Real Dairy uggá majila miká karbár salá. Dorhás yíán or juwabé, eçe 268 zon ortú beci ham goryyá asé jítará niki haná baná. Ms Muir bujaiyé dé ki heçe bohut somajor nana kowmór manuc okkol ham goré. Real Dairy ortú ekkadá alok manuc golaibár ardé soolibár especalist asé, Ms Muir. Ms Muir é Mr Shah's ré hamottú nēelai diyé. Ms Muir ór hisapé Mr Shah ré hamottú nēelai dibár wujhá asé, mogor nēelai dibár age Mr Shah'r fuañti híin loi hotá nóo hó.

[23] Komicon ejjo oile onno wujhá ookol ó hisap ot dhoribó s. 387(h). Heçe bhutoré onno hotábartá okooló uçi aiccé. Foilá, Mr Shah ekjon Australian citizenship faiyá manuc, hibá Rohingya kowmór. Hibár English eddoor góom nó. Hibaré Konfarens ót ekjon interpreter modót goirjé. Dusrát, Ms Muir hoiyedé ki Real Dairy ekkudillá kowmor aroo manucoré hamot raikké. Hibár jubani mojin hotábrta ardé salsolon or bechomór joriyá goldi bujár jorýá mockil okkol óor. Tin nombor, Mr Shah'r femili refooji kemp ot ase Bangladesh ót, ardé hibaýe ham goroddé hitraré Sydney aniballá. Sair, Mr Shah gari nó sala. Hibá 25 minit haçiyoré Real Dairy ayé, kiyallá hibattú gari sala no fore fán. Hibýá hoiyede ki hendilla arekkadá ham tuwai faité hibattu becabeci moickil oi jaibó Real Dairy -r dóillá. Fañs, Ms Muir añre funaiyé de ki gelde 30 bosor fán manuc golaibár ardé solibár ham goreddé heçe hibattú honodin hamottu nēelai dibár baboté Komicon ót hazir uwá no fore.

[24] Aañi dekidde worer hota híin eçe talookat asé. Yiyán soohih dē ki Mr. Shah ekjon Rohingya, hibayé Engraji hom jané, zoruri hotá hoi fare dé. Añi faiyi dé ki hibár vacázuban ardé hibá hodiýár manuc yiyánor zoríya eçe mockil aróo bairjé. Yiyán sáaf gori hot fáa no jar dé ki Real Dairy'r ham goribár toriká hibaré bujai diyá giyé ki nó já ardé hibaré diyyá huciyarí okkol ó hibayé hot gorí loi fairzé né ardé hibaré 2024 ot hotá hoibár mowká diyá giil dé híin hibayé hot faiyé né uddá, Hibár nijor baboté sáaf goriyoré bujáí hoibár sohih hono mowká hibayé no fáa uddá. Mr. Shah'r jimmá oiyé dé ki refiji kemp ot hibar femiliré saloon Bangladesh ót yiyan no thakilé hibár tiya foicá loi beca luksani oi jaibó. Hibá gari no sala ardé goror kinaré haçar rastat ekkadá faiyedé ham harai felaiyé, Noiyá arekkadá ham tuwai faité hirtú aroo beca mockil oi jaibó, hibar lá ekkadá door fuzá oi jaibó goi.

[25] Ms. Muir'ór geldé 30 bosor ór menejar mani hibártú hendillá becábeci eksperiens asé. Toriká no maniyoré hamottú nēelai dibar baboté hamaha hittú gom goriyoré elom asé. Mr Shah

ré Real Dairy – ir hentú toriká no maniyoré nēlai dibár baboté tarar kompanittu kissu mamala mukabilá gorá forer. Endillá mamalá híin hamaha tararrú mukailá goribár ekkadá rassá taká forito nanajatór manucé kéeen gorí ekkán tú hám gorí faribo yíanor baoboté. Heçe lageddé ki híin nai. Ardé añi dekidde ki Mr Shah’r baboté, bazé motto tarar tú dóok lager hoi dehár, kiyallá hitarartú hibaré solité menej gorite mockil oi giyé goi ardé Real Dairy aar Ms Muir, jodicé Mr Shah’r halot buji, otto mojin duk hót faitó toile behtór oitó, yian aroo sohih gorí yore Mr Sha’r fuwanti talookat goríle behtór oi faritó.

[26] Woré diyyá wujha okkol or joriyá toriká no maniyoré hamottú nēlai diyyé dé heçe hot goillé boli añi hisap ót dhorir.

[27] s. 387, diyyá hár wojha okkol hisap ot loile, añi faiyidé ki Mr Shahre hamottú nēlai dóon yían becábecí doró oi giyé goi, borabor nóo oó ardé toriká noo mané. Añar hisape hamottú nēlai dibár agé hamahá kiyallá nēlai diyá jáar ardé hotá hoibár ekkadá mowká diyá foritó., ardé hibár nijor halot sáilé hibaré nēlai diyé dé yían toriká no mané. Tar mani, hibaré hamot sohi nojjiké no sáa ardé yian ór joriyá hamottú toriká no mani nēlai diyá giyé.

Elaz ór baboté

[28] Dorhás yianót Mr Shah gunarí notó arekmottó hamot golaibár aroj goirjé. Konfarens ot hibayé hoyé dé ki hibayé gunarí magé kiyallá wapés hamot gilé arekmottó hibaré nēlai dibo boli hibáyé dorá.

[29] Sekcon 390 yé komisson yé raji oí fairzé dé ki ei mamalaát toriká no maniyoré hamottú nēlai diyá giyé, ardemanuc hibaré sohih goriyoré no rakhé, sailé arekmotto hamot golaibár hukum dit faré. Mogor Komicon é yían borabor no oilé yían no goritó faré.

[30] Arekmotto hamot loile borabor oibó né yían sai huwá zar dé ki, kanoon or s. 381 mojin jendillá huwá asé yían gorá jaito faré. Yianor mani oiyedé arekmotto hamot golon noto “Bekkon orla gom goron jibá niki ham wala arde ham goroyyár lá borabor oibó.

[31] Mr Shah yé wapés hamot golitó nó sáar kiyallá hibayré arekmottó hamottú nēlai dibo hoi hibá dorá. Ms Muir ekkudillá hisabe Mr Shah ré hám ot no jailé behtor oibó hendillá hoiyá kiyallá hibaye rahai uçe dé endillá salsolon ardé hám no faré.

[32] Añi endillá faiyi dé ki ei mamalá yianoré ekkadá faisalá diyá jáa arde Real Dairy ré hukum diballá dé Mr Shah ré wapés hamót loiballá. Añi endillá no tarir dē ki Mr Shah’ré wapés arekmotto hamot golilé arekmottó hamottú nēlai dibo, añar hisape yian sohih no. Ms Muir eçe funanit sohih toriká loi corik oiyé ardé hitarar nijor sintá ferecanir hotá okkol kulakuli tuillé. Kompany ibayé hendillá kissu horap goribó añar tú no lagér. Añi aro yían andáz gorir dé ki kompany ibayé Mr Shah ré torikár baaré kissú goribó. Hamortú nēlai dibár agé hibá jeçe aiccíl heçe wapés arekmottó golí faroibó.

[33] Mr Shah yé janibó dé eçe funani’t ki hotá oiyé ardé kompany yé hibár tú kiacá gore híinor baboté. Añar faisalá yian trasnlet gorá oibó ardé yár baadé Mr Shah’r foilá zubanót bangi diyyá jaibó hiyé sáf gorí bekkun bijé fán. Real Dairy re yian janibo dé ki hitarr tú Mr Shah fuwanti honoidillá hotá noto sintá thakilé sáf gorí bujái dé fán arde’hibayé hót fáa fán.

[34] Sekcon 390 yé hámot wapes jaibar baboté ardé agé no fáa dé mojir baoté hoo. Añi ei kes ibár baboté ekkadá faisala díir dé ki hibaré arekmottó hamot goloai loon ardé hibaár mojuri hañzi giyé dé hiin doon. Mr Shah ré nēlai diyé loti aar hám noo goré. Añi hukum díir dé ki **\$18, 035.56** diballá 20 haftar mojuri hisabe ek haftah báad rakiyoré jibá níká nutic diyoré suttí hisapé diyyá geil. Airjjá loti 14 dinor butoré hamot wapes loibár hukum yianor hám curu gora foribó.

Akherít

[35] Añi faiyí dé ki Mr Shah ré toriká no maniyoré hamottú nēlai diyyé. Añi endillá faiyi dé ki hibá wapes hamot golí faribo ardé hibaré agor mojuri okkol diyá foribó.

[36] Diyyá hukum okkol alok goriyoré safái diyyá jaibó.

[37] Ei faisalá ardé hukum okkol alok goriyoré Rohingya zubán ot safá oibó.



DEPUTY PRESIDENT

Hazir Aiccil:

Mr Alam Shah, dorhas zomá doiyá, nijor tor ortú.

Ms Sharon Muir Zuwab doyyár torof ortú (Respondent).

Funanír baboté:

21 August 2025

Samna-samni

Sydney

Commonwealth Government Printer ottú safá giyyé



HUKUM

Fair Work Act 2009

s.394 - Application Torika no maniyoré hamot tú nēelai diyyē dé yianor eláz

Mr Alam Shah

v

REAL DAIRY PRODUCTION PTY LTD

(U2025/8683)

DEPUTY PRESIDENT SLEVIN

FRIDAY, 5 SEPTEMBER 2025

Faisalá diyá giyé dé yianór fuwanti [\[2025\] FWC 2621](#), Komicon'é lamar hukum okkol déer:

- A. Fair Work Act 2009 (FW Act) ór s.391(1) mojjin, Real Dairy Production Pty Ltd (Real Dairy) é Mr Alam Shah (Mr Shah) arekmotto hamot wapés goliabó je ekku jagát niki hibayé hamót aiccil nēelai dibár agé.
- B. Arekmottó goilaibár hám yian A. 19 September 2025 hukum yian dibár 14 dinór butoré uwá foríbó.
- C. FW Act (kanuun) ór sabsekcon 391(2) mojin, Mr Shah'r hám Real Dairy fuanti solar thakibo jedín loti niki hibaré nēelai diyyá gíil ardé arekmottó hamot golaiyé. Mr Shah ré nēelai diyyé dé hé loti arek motto hamot goal fán mazo como híin hamot aiccil hoi dora oibó Real Dairy 'r ham goroyá hisape.
- D. FW Act (kanuun) ór sabsekcon 391(3) mojin, Real Dairy is yé Mr Shah'r ham giyyé goi dé otollá Mr Shah ré kulle **\$18, 035.56** (20 haftár mojurí dibó ekhaftár nutic diyyá sutti baadé).

E. Dairy yé D – eçe diyyá asé dé pay hibá hukum ibár 14 dinor butoré dibó.



DEPUTY PRESIDENT

Commonwealth Government Printer ottú safá giyyé