

PRIVATE AND CONFIDENTIAL - NOT FOR PUBLIC DISCLOSURE

In the matter of

**LICENSING REVIEW HEARING
SCHEDULED FOR 20TH APRIL 2023**

APPLICANT:

Caroline Laird on behalf of Immigration Enforcement

RESPONDENT:

**EVA PVT Ltd, the Premises Licence Holder
t/a New Milano'z Pizza, 136 Wokingham Road, Reading**

Respondent's Skeleton Argument

SITUATION

Timeline

26th January 2023- Under S.179 of the Licensing Act a joint inspection Home Office Immigration Enforcement and RBC Licensing officers took place and three individuals that were allegedly working illegally were detained.

1st March the Immigration Enforcement made an application to review the premises licence on the grounds of the suspicion that three individuals were allegedly employed at the premises without the right to work in the UK.

7th March Mr Chawama wrote to Milano'z King Pizza highlighting that at the time of the joint inspection on the 26th January a S.57 notice was not being displayed and that duty manager could not produce Part A of the premises licence could not be produced.

14th March Mr Tahir, the Director of EVA PVT Ltd, had a meeting with Mr W. Donne of Silver Fox Consultants and gave instructions. inter alia, to the drafting and submission of a Minor Variation.

22nd March a further joint inspection was carried out by RBC and TVP Licensing officers.

22nd March the Premises Licence Holders (PLH) agent submitted an application to RBC for a Minor Variation to add more robust conditions to the premises licence. (Appendix 1- Summary).

23rd March, Mr Smyth TVP Licensing Officer wrote to the PLH stating that page two of the PL and S.57 notice was not correctly displayed, and that Part A was incomplete. He also noted that a 'Do not drop litter' notice was evident. He also made other observations about matters that are not conditions of the PL at the time of the inspection.

11th April a Civil Penalty Notice (CPN) was issued by the IE on the respect of one individual alleged to have been working at the premises without the right to do so. A formal objection to this penalty will be lodged with the Immigration Authority by the due date by the premises licence holder's solicitor on the 18th March.

17th March RBC licensing confirmed that the minor variation to add conditions to the PL had been granted under delegated powers.

BACKGROUND

The location has had the benefit of a Premises Licence authorising the provision of Late-Night Refreshment for many years since the year 2010.

EVA PVT Ltd was incorporated 2021 and purchased the business in August 2022 and the Premises Licence was transferred to EVA PVT Ltd on the 4th August 2022.

The sole Director and owner of the Company is Mr Farhan Tahir and lives in [REDACTED]. Mr Tahir employs a manager to operate the business on a day-to-day business.

The business is registered with HMRC for PAYE and all employees paid through the scheme. All employees are employed on a zero hours contract of employment and are paid on a monthly basis in arrears. Each employee is remunerated for at least the minimum rate for each age group via the accountant.

On the day of the inspection by the Immigration Authority Mr Tahir, the sole Director of EVA PVT Ltd, the PLH, was abroad in Pakistan and had been for several weeks prior to the visit.

ASSESSMENT

Three individual males were detained on the evening of the 26th January and were subsequently released. Following the inspection, the IE sent a request to the PLH for further information in relation to the three individuals.

The Company statement made it quite clear that Male # 1 was employed by the Company for his permitted twenty hours per week; and Male # 2 was a known homeless person who was being given free food by the staff at the time of the inspection. The IE have confirmed that no penalty notices will be issued in respect of these two individuals.

On 5th April A penalty charge notice has been served on the PLH in respect of Male # 3, a Mr S for allegedly being employed at Milano'z without the right to work in the UK.

The third male known as Mr S was simply returning a warm bag that he had used earlier in the week to take his pizza home to Hounslow. He is a regular customer at the shop and often purchases a pizza to take away after he has visited his sister whom lives in Reading. On each occasion he is provided an insulated bag to keep his pizza warm.

Mr S has never been employed by the Company either on a formal or informal basis, nor has any contractual obligations between him and the Company been implied.

As Mr S has never been an employee of the Company it was not possible to provide proof of the right to work in the UK.

The definition of a "worker"; a Person is generally classed as a worker if:

‘They have a contract or other arrangement to do work or services personally for a reward.’

Mr S at all times during his interview has mentioned that he was not working nor has ever worked at EVA PVT LTD. He has not received any payment, there was no remuneration in kind paid.

There was no employment contract in place, he was neither under the control nor bound to report to anyone at the above stated business.

As a regular customer he is given a 'family and friends' discount on any purchases he made at the shop.

However, Mr S has kindly provided some relevant information in order to clarify the situation.

He does have the right to work in the UK as a skilled worker, and that he has been employed full time by [REDACTED] as a care worker in a home.

A copy of his January payslip at **Appendix 2** and a contract of employment with GCS. **Appendix 3.**

Mr S has also made a statement confirming that he has never been employed by the Company and his signature was witnessed by a Solicitor, Mr Aluri, of Aden and Co Solicitors Ltd. **See Appendix 4**

This information has been submitted to the IE as part of the objection notice.

Summary and Recommendation

The IE submitted the review on the basis that EVA PVT Ltd were guilty of employing three illegal workers, i.e., individuals whom do not have the right of work in the UK. This is simply not the case.

We accept that Part B and S57 notice documentation was not correctly on display but the paperwork was present on site. This has been rectified.

It was recognised that the current CCTV system did not meet the minimum standards required and has been fully upgraded.

A successful application was made to the Licensing Authority for a minor variation to add conditions commensurate with the expected current expectations.

We would request that the Licensing Sub Committee reject the application for revocation of the premises licence

Signed: William Donne, Licensing Agents, Silver Fox Consultants

Date: 17th April 2023

Appendices: