

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 139A/08
5105938

BETWEEN A
 Applicant

AND D LIMITED
 Respondent

Member of Authority: Marija Urlich

Representatives: In person
 Respondent's directors

Submissions received: 29 April 2008, from Respondent

Determination: 9 June 2008

COSTS DETERMINATION OF THE AUTHORITY

[1] In a decision dated 14 April 2008 the applicant's application for leave to raise a personal grievance outside the 90-day time limit was declined. Costs were reserved and a timetable for the filing of costs memoranda was set.

[2] The respondent filed its costs memorandum and attachments on 29 April 2008. These documents were sent to the applicant on that same day along with a request that any response should be filed within 14 days. Nothing was received from the applicant within the specified timeframe. The support officer then contacted the applicant who advised she had not received the documents and that they should be sent to a specified PO Box number. This was done on 21 May 2008 with a covering letter advising the applicant she had a further 14 days to provide a response. Nothing has been received from the applicant.

[3] It is appropriate to move to determine the issue of costs.

[4] Schedule 2, clause 15 of the Employment Relations Act 2000 provides the Authority with a discretionary power to award costs and expenses incurred in pursuing or defending an application to the Authority.

[5] The itemised invoices relating to legal advice taken by the respondent have been provided. They total \$943.13. The respondent claims reimbursement for this amount. The respondent also claims reimbursement of directors' time and petrol expenses for attending the investigation meeting. This claim totals \$314.

[6] A party representing him or herself may claim costs for legal advice sought in preparing for the hearing and arguing it themselves. The present situation is similar; the lay directors of the company have acted as its representative. A wide view should be taken of party expenses given the Authority's equity and good conscious jurisdiction¹.

[7] It is usual that costs follow the event ie, that an award of costs is made against an unsuccessful party in favour of the successful party. This is not always the case but in this situation it is appropriate that costs should follow the event; the applicant's claim was unsuccessful, the respondent has incurred costs and it is entitled to a fair contribution to costs reasonably incurred. Taking into account the principals applicable to an award of costs in the Authority² I set that award at \$300 plus a contribution to expenses incurred which I set at \$50.

[8] **The applicant is ordered to pay the respondent party \$350 pursuant to schedule 2, clause 15 Employment Relations Act 2000.**

Marija Urlich

Member of the Employment Relations Authority

¹ *Health Technology v McDonald* [1993] 2 ERNZ 842

² *PBO Limited v Da Cruz* [2005] 1 ERNZ 808