

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON OFFICE**

BETWEEN Christopher George Aaltonen (Applicant)

AND Radfords Limited (Respondent)

REPRESENTATIVES A McIntosh for Applicant
S Dalzell for Respondent

MEMBER OF AUTHORITY G J Wood

INVESTIGATION Submissions Received by 12 September

MEETING

DATE OF 13 September 2005

DETERMINATION

DETERMINATION OF THE AUTHORITY

1. In my substantive determination of 12 July 2005 I held that Mr Aaltonen's dismissal was justified on the grounds of redundancy. On behalf of the respondent (Radfords) Mr Dalzell seeks an award of \$9,100 in its favour. In so doing, Mr Dalzell sought a reasonable contribution to Radfords' costs and for account to be taken to an open offer to settle of \$1,000 on 15 April and a *Calderbank* offer of \$4,000 issued on 14 June. Mr Aaltonen rejected both offers, although he sought \$9,500 as a settlement figure in response to the *Calderbank* offer. Mr Dalzell also referred to the applicant's claim for interim reinstatement which was ultimately not proceeded with.
2. On behalf of Mr Aaltonen, Ms McIntosh submitted that costs should lie where they fall. She noted that Mr Aaltonen was an 18 year old with a disability who was on the unemployment benefit. Ms McIntosh also submitted that the level of costs sought was unreasonable and that the *Calderbank* offer was made only three days before the investigation meeting, which meant that Mr Aaltonen had already incurred significant costs.

3. The issue of the *Calderbank* offer is not particularly important in this case because Mr Aaltonen was completely unsuccessful in any event and because it was made too soon before the investigation meeting to be effective. However, Mr Aaltonen proceeded with his application in the knowledge that if he was unsuccessful he would be most likely required to contribute to the costs of Radfords.
4. While I accept that Mr Aaltonen has no assets and no income, this will not always be his financial position. The possibility of him getting a job and therefore being able to pay costs, even if over time, remains a significant one. He should therefore be able to meet a costs award, even if payments are only made over time (*Pain v. The Alliance Group Ltd*, unreported, Palmer J, 8 January 1997, CEC32A/96 applied.)
5. The matter was efficiently investigated and was dealt with in less than a full day. In all the circumstances of this case, I consider it appropriate that Mr Aaltonen should contribute \$1,000 towards the costs of Radfords.
6. I therefore order the applicant, Mr Christopher Aaltonen, to pay to the respondent, Radfords Limited, the sum of \$1,000 in costs.

G J Wood
Member of Employment Relations Authority