

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Ani Aerengamate (Applicant)

AND Optimum Performance (Lifestyle) Limited (First Respondent)
AND Optimum Performance (Lifestyle) Youth Trust (Second Respondent)

REPRESENTATIVES Mark Ryan, Counsel for Applicant
No appearance for First or Second Respondent

MEMBER OF AUTHORITY Dzintra King

MEMORANDA RECEIVED 10 June 2006 from Applicant
No memoranda from Respondent

DATE OF DETERMINATION 15 August 2006

COSTS DETERMINATION OF THE AUTHORITY

The applicant was successful in her claim and now seeks costs. The applicant was legally aided; her grant was \$770.00.

The principles applicable to an award of costs in the Authority have been set out in PBO Ltd (formerly Rush Security Ltd) v Da Cruz, unreported, AC2A/05, 9 December 2005. The Full Court set out a number of principles including:

- There is a discretion as to whether costs are awarded and the amount of the award;
- The discretion is not to be exercised arbitrarily;
- Costs are not to be used punitively;
- The Authority can consider whether all or any of the parties' costs were unnecessary or unreasonable;
- Costs generally follow the event;
- Awards will be modest
- Frequently costs are judged against a daily notional rate;
- The nature of the case can influence costs.

The fees incurred were reasonable and the respondent should meet the full cost of the fees. The respondent is to pay the applicant the sum of \$770 in costs.

Dzintra King
Member Employment Relations Authority

