THIS DETERMIANTION CONTAINS AN ORDER PROHIBITING PUBLICATION OF CERTAIN INFORMATION

IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND

[2015] NZERA Auckland 285
5467301

	BETWEEN	PAUL ANDERSON Applicant
	AND	ALLIED INVESTMENTS LIMITED Respondent

Member of Authority:	Vicki Campbell
Representatives:	Paul Anderson in Person Damian Black for Respondent
Investigation Meeting:	12 June 2015
Further information Received:	15 June and 13 July 2015 from Respondent
Determination:	18 September 2015

DETERMINATION OF THE AUTHORITY

A. A non-publication order applies to the name of Allied Investments Hamilton client and its employees.

B. One or more conditions of Mr Anderson's employment was affected to his disadvantage by an unjustifiable action of Allied Investments Limited

C. Allied Investments Limited is ordered to pay to Mr Anderson an amount equivalent to two weeks wages within 28 days of the date

of this determination.

D. Mr Anderson was unjustifiably dismissed.

E. Allied Investments Limited is ordered to pay to Mr Anderson an amount equivalent to four weeks wages for the period 4 October to 3 November 2013 inclusive pursuant to section 123(1)(b) of the Employment Relations Act 2000 within 28 days of the date of this determination.

F. Allied Investments Limited is ordered to pay to Mr Anderson the sum of $11,250 pursuant to section 123(1)(c)(i) of the Employment Relations Act 2000 within 28 days of the date of this determination.

Intituling

[1] The correct legal entity for the respondent has been the subject of debate. In his statement of problem Mr Anderson named the respondent as Allied Security Limited. Mr Damian Black is the sole director and shareholder of Allied Security Limited.

[2] When the file was processed in the Registry of the Authority, the Authority Officer mistakenly processed the file citing the name of the respondent as Allied Security Group Limited. Allied Security Group Limited was struck off the Companies Register on 2 March 2006. The directors and owners of Allied Security Group Limited were not people associated with Allied Security Limited.

[3] The statement of problem was served at 55 London Street, Hamilton which is not the registered office of either Allied Security Limited or Allied Security Group Limited, but is the Hamilton office of Allied Investments Limited.

[4] On 11 March 2015 despite the statement of problem being served on an incorrect address Allied Investments Limited lodged a statement in reply signed by Mr Damian Black. Mr Black is the sole director and the majority shareholder of Allied Investments Limited.

[5] The confusion over the name of the respondent was not assisted by the Employment Agreement naming Allied Security as the Employer Party. Also among the papers lodged in the Authority was a document entitled "Application for Approval of Responsible Employee of Security Guard". This is an application made by Mr Black on behalf of Allied Investments Limited for approval to employ Mr Anderson in his business.

[6] When preparing for the Investigation Meeting, I discovered the problems with the intituling on the file and raised this with the parties at the investigation meeting. I requested Mr Anderson lodge and serve an amended statement of problem showing the correct legal entity as Allied Investments Limited. This has been lodged.

[7] After the investigation meeting and on 15 June 2015 Mr Chris McDowall, Allied's Operations Manager, wrote to the Authority stating Allied Investments Limited has not been involved in any employment complaints or grievance raised by Mr Anderson.

[8] The question of naming of parties to proceedings is an important one and there are instances where matters fall over because (for example) the wrong employer is named as a respondent. Those matters fail because no amount of tidying up can cure the fact that the parties named are genuinely strangers to each other and the wrongly named respondent is in no position to meet or respond to the matters which the applicant says are in issue.

[9] I am not satisfied that is the case here. Mr Damian Black is a director and majority shareholder of Allied Investments Limited and Allied Security Limited. Mr Black knew that he was responding to a personal grievance of his former employee, Mr Anderson. No exception was taken to the named respondent on the initial documents served on Mr Black and the parties have participated in mediation in an attempt to resolve matters.

[10] Allied Investments Limited has not been disadvantaged or prejudiced in any way during these proceedings. Nor has a situation been created whereby Allied Investments Limited was dealing with matters unknown to it. Mr Black and members of his team fully participated in the investigation process including providing written witness statements and attending the investigation meeting to answer questions.

[11] The Authority is an investigative body that has the role of resolving employment relationship problems by establishing the facts and making a determination according to the substantial merits of the case, without regard to technicalities.[1]

[12] Requiring Mr Anderson to lodge his application again, seek witness statements and hold a new investigation would not, in my view, meet the Authority's statutory obligation to deliver speedy, informal and practical justice to the parties.[2]

[13] I have proceeded to determine this matter on the basis that Mr Anderson was employed by Allied Investments Limited (Allied) and that company is the correct respondent.

Non-publication orders

[14] At the investigation meeting Mr Black applied to the Authority for non-publication orders in respect of the name of the client on whose site Mr Anderson was employed and the names of all the clients employees.

[15] As the application came at the end of the investigation meeting I directed Mr Black to lodge a formal application setting out the grounds on which he was making the application.

[16] The Authority has a wide discretion to prohibit the publication of evidence.[3] Non-publication orders depend on proof of real and substantial likelihood of undue harm.[4]

[17] The Employment Court in *H v A Ltd*[5] stated:

> We agree that non-publication of names or other identifying particulars in employment cases will be "exceptional" in the sense that such orders are and will be made in a very small minority of cases. However, we do not agree that an applicant for such an order must make out, to a high standard, that there are such exceptional circumstances that a non-publication order is warranted. That is not the standard that Parliament has prescribed for such orders in this Court or the Authority.[6]
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> …

[1] Employment Relations Act 2000 section 157(1).
[2] Ibid at section 174.
[3] Employment Relations Act 2000 (the Act) Schedule 2clause 10(1).
[4] *C v Air Nelson* [2010] NZEmpC 18 at [16].
[5] [2014] NZEmpC 92.
[6] Ibid at [78] and [80].

> There are, of course, other circumstances in which this Court (and the Authority and other courts) prohibit publication of information about cases. Commercially sensitive information that may be misused by a competitor, if published, is perhaps the most common example of non-publication orders in this jurisdiction.

[18] Mr Black has complied with that direction and seeks non-publication orders on the grounds that Allied and its client are currently in negotiations over a renewal of its contract and disclosure of the name of the client may jeopardise a successful outcome of those negotiations. Mr Black submits that losing the contract as a result of publicity over this case would have a significant impact on the employment of up to 40 employees.

[19] I have considered the grounds put forward and am satisfied that naming of the client and its employees when they have not had the opportunity to give evidence will serve no purpose and is likely to cause undue harm. I prohibit from publication the name of the client and its employees.

Employment relationship problem

[20] Mr Paul Anderson claims he was unjustifiably disadvantaged and then unjustifiably dismissed from his employment as a Security Guard with Allied. Allied denies the claims.

[21] As permitted by s 174E of the Employment Relations Act 2000 (the Act) this determination has not recorded all the evidence and submissions received from Mr Anderson and Allied but has stated findings of fact and law, expressed conclusions on issues necessary to dispose of the matter, and specified orders made as a result.

Background

[22] Mr Anderson commenced employment in July 2010 as a Security Guard. Mr Anderson's terms and conditions of employment were set out in a written employment agreement signed by Mr Anderson on 27 July 2010.

[23] Allied provide security guards for clients. Mr Anderson was working on a large client site which has two main areas of work, the first I will refer to as the main site and the second I will refer to as "ZYX", a secure facility, located within the grounds of the business operated by the client.

[24] In June 2013 issues arose in the workplace as a result of Mr Anderson leaving his post to go to the bathroom without arranging cover on four separate occasions in May 2013. Mr Anderson explained that he was suffering from a medical condition which required him to use the bathroom during his shift and he had had to leave his post without arranging cover. Mr Anderson was instructed that he was not to leave his post in the future until he had arranged cover.

[25] In August 2013 concerns were raised by the client that Mr Anderson had urinated in a cup in a security booth on a number of occasions. This was followed by allegations that Mr Anderson had assaulted a fellow security officer, had failed to follow required procedures when a person returned to ZYX, and he had failed to man the security booth at ZYX for 45 minutes.

[26] Mr Anderson was issued with a letter on 5 September 2013 given him four weeks' notice of the termination of his employment and advised that a disciplinary meeting would take place on Monday 9 September 2013 at which time it would be decided whether his employment would terminate immediately after four weeks' notice depending on whether serious misconduct was established or not.

[27] As events transpired the disciplinary meeting took place on 12 September 2013. Mr Black was not present at that meeting but was a decision maker in the process.

Issues

[28] The issues for determination are whether:

a) One or more conditions of Mr Anderson's employment were subject to his disadvantage as a result of unjustified actions by Allied; and

b) Mr Anderson was unjustifiably dismissed; and

c) What, if any, remedies should be awarded.

Unjustified disadvantage

[29] Mr Anderson claims one or more conditions of his employment were affected to his disadvantage as a result of the unjustified actions of Allied.

[30] The statutory test of justification is contained in s 103A of the Act. That section provides that the question of whether an action was justifiable must be determined on an objective basis, having regard to whether the employer's action, and how the employer acted, were what a fair and reasonable employer could have done in all the circumstances at the time the action occurred.

[31] In applying the test in section 103A the Authority must consider the non-exhaustive list of factors outlined in s103A(3):

> (a) whether, having regard to the resources available to the employer, the employer sufficiently investigated the allegations against the employee before dismissing or taking action against the employee; and
>
> (b) whether the employer raised the concerns that the employer had with the employee before dismissing or taking action against the employee; and
>
> (c) whether the employer gave the employee a reasonable opportunity to respond to the employer's concerns before dismissing or taking action against the employee; and
>
> (d) whether the employer genuinely considered the employee's explanation (if any) in relation to the allegations against the employee before dismissing or taking action against the employee.

[32] In addition to the factors described in s 103A(3), the Authority may consider any other factors it thinks appropriate. An action must not be found to be unjustified solely because defects in the process were minor and did not result in the employee being treated unfairly.[7]

[33] The role of the Authority is not to substitute its view for that of the employer. Rather it is to assess on an objective basis whether the decision and conduct of the employer fell within the range of what a notional fair and reasonable employer could have done in all the circumstances at the time.

[34] As the full bench of the Employment Court observed in *Angus v Ports of Auckland Ltd*[8]

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[7] Employment Relations Act 2000, section 103A(5).
[8] [2011] NZEmpC 160, (2011) 9 NZELR 40 at [26].

> A failure to meet any of the s 103A(3) tests is likely to result in a dismissal or disadvantage being found to be unjustified. So, to take an extreme and, these days, unlikely example, an employer which dismisses an employee for misconduct on the say so only of another employee, and thus in breach of subs (3), is very likely to be found to have dismissed unjustifiably. By the same token, however, simply because an employer satisfies each of the subs (3) tests, it will not necessarily follow that a dismissal or disadvantage is justified. That is because the legislation contemplates that the subs (3) tests are minimum standards but that there may be (and often will be) other factors which have to be taken into consideration having regard to the particular circumstances of the case.

[35] Allied's resources and knowledge are not in issue. Allied is a substantial employer. Mr Chris McDowall's evidence at the investigation meeting demonstrated to me that he has a good knowledge of what is required in addressing issues of misconduct.

[36] On 5 September 2013 Allied's client advised Allied that Mr Anderson was not to return to its site as he had been observed breaching protocols and reports had been received of him urinating into a cup.

[37] Mr Anderson was told he was not to return to work and was given notice of the termination of his employment on 5 September 2013. In the letter Mr Black stated:

> Under the terms of your employment contract 4 weeks' notice is required and I give you that notice today Thursday September 5th. We have spoken of this and this information at length today. Your last day of employment will be October 3rd 2013.
>
> During that 4 week period I would also direct you to take annual leave and give you 2 weeks' notice of this. Annual leave will run from Thursday 19th September until Thursday 2nd of October.
>
> However as we have been awaiting an investigation meeting which you have delayed until Monday September 9th we reserve the right to terminate your employment immediately effective Friday 6th if serious misconduct is found to have been proven. [my emphasis]

[38] In accordance with the instructions contained in the letter Mr Anderson was paid for the last two weeks of his notice but was not paid for the first two weeks.

[39] When instructed to stay away from work Mr Anderson was effectively suspended. There was no contractual right to suspend Mr Anderson and certainly no contractual right to suspend without pay. Mr Anderson was not provided with any opportunity to discuss or respond to any proposals that his employment be suspended.

[40] Suspending Mr Anderson without pay and without any consultation over a proposal to suspend him was not an action an employer acting fairly and reasonably could have taken in all the circumstances of this case.

[41] Mr Anderson was unjustifiably disadvantaged as a result of the suspension and he is entitled to a consideration of remedies.

Unjustified dismissal

[42] Mr Anderson was dismissed for serious misconduct which included allegations that he had:

a) Urinated in a cup in public more than once;
b) Granted access to a person to the secure facility at ZYX; and
c) Failed to meet minimum requirements for staffing levels

[43] Allied received complaints from its client that Mr Anderson had urinated in a cup on multiple occasions, had failed to follow the required procedures in admitting a person into the secure unit at ZYX on or about 31 August 2013 as well as concerns that the security booth at ZXY was unmanned for approximately 45 minutes on 4 September 2013. The client advised Allied that it was considering ordering Mr Anderson off its site.

[44] As already set out earlier in this determination Mr Anderson received written notice on 5 September 2013 of allegations of serious misconduct but the letter does not provide any details.

[45] Mr Anderson attended a disciplinary meeting on 12 September 2013 where he was accompanied by his wife even though Mr Anderson had been speaking with a legal representative. Mr McDowall managed the disciplinary meeting which was also attended by Mr Aaron Brown who is an Operations Manager for Allied based in Hamilton.

Urinating in a cup

[46] In June 2013 the client raised with Allied its concerns that Mr Anderson had left his security booth for short periods to use the toilet on 20, 21, 22 and 28 May 2013.

[47] Mr Anderson's explanation at that time was that he was experiencing medical difficulties which required more frequent use of the toilet. As a result of the complaint Mr Anderson was instructed that he could not leave the booth during his shift unless he could first obtain cover.

[48] Around 19 or 20 August 2013 Mr Anderson says he was unable to find cover from within the team working at the site to allow him to take a toilet break and so, being mindful to the instruction that he was not to leave his post to attend the toilet he used a styrofoam cup to relieve himself.

[49] Mr Anderson told the Authority that he attempted to get someone to cover for him on the night in question but all other guards he asked to cover reported to have other tasks to complete. Mr Anderson felt he had no option as he did not want to leave the booth and face possible disciplinary action.

[50] Once he found cover, he disposed of the cup and its contents. Mr Anderson reported the incident to his team leader. Immediately following that incident adjustments were made so Mr Anderson could take breaks in accordance with the terms of the employment agreement.

[51] In its complaint the client alleges Mr Anderson had used a cup on more than one occasion to relieve himself. Throughout the disciplinary process Mr Anderson was adamant it had only been on one occasion and that he had immediately reported the event to his team leader.

[52] The complaint that Mr Anderson had done this on more than one occasion was not upheld. In an email to the Security Manager for the client on 16 December 2013 Mr Black states:

> Re the cup please refrain from claiming Paul has done this on more than one occasion as there was absolutely no evidence of that and all statements from staff, which Paul has, contradict this occurring more than once.

Failure to follow access procedures to a secure unit

[53] This issue relates to Mr Andersons' alleged failure to "wand" a person entering into the secure unit at ZYX.

[54] Mr Anderson denied not following the correct procedure, however, those denials were not accepted by Mr Black. At the Authority's investigation meeting Mr Anderson acknowledged that he had failed to "wand" the person as they entered the secure facility.

[55] I am satisfied the consequences of Mr Anderson not following this procedure could have been serious but I am not satisfied Mr Black considered this serious enough to warrant summary dismissal. In correspondence to the client following the disciplinary meeting Mr Black, in seeking to have Mr Anderson reinstated to the client's site sets out Mr Anderson's explanation from the disciplinary meeting and says that while Mr Anderson's actions were against the standing orders it seems to be a previous practice and he suggests a final warning would be more appropriate than a termination.

Failure to meet minimum requirements for staffing levels

[56] This issue relates to an allegation that Mr Anderson left the ZYX area below the required manning levels from 12.30am until 1.15am when Mr Anderson arrived to secure it.

[57] On the night of 3/4 September 2013 Mr Anderson was acting as the Team Leader for the shift. Mr Anderson had received a request for cover from another site out of Hamilton. Mr Anderson says he had no experience of dealing with this type of situation but after making calls to others including Mr McDowall he managed to find cover. The cover was to be provided by a guard working at the Hamilton site. Mr Anderson says he told the guard to contact him when he was ready to leave the Hamilton site, when he arrived at the site where he was providing cover, and when he finished his shift.

[58] Mr Anderson says he had not heard from the guard and so when a mobile patrol officer arrived about 1.00am and met him at the main site where he had been completing paperwork he headed down to the ZYX site. On his arrival he discovered the guard had already left without notifying Mr Anderson.

[59] At the disciplinary meeting Mr McDowall put to Mr Anderson his understanding from the guard that Mr Anderson had told the guard to leave and that the time of that instruction was 12.30am. Mr Anderson denied this.

[60] There is no evidence that Mr Anderson's version of events was not accepted. In correspondence to the client following the disciplinary meeting Mr Black, in seeking to have Mr Anderson reinstated to the client's site, sets out Mr Anderson's explanation that the guard had not notified him that he was leaving the site and states that it is a case of one word against the other.

Determination

[61] As set out in paragraphs [23] – [27] of this determination, the legal test is to determine whether, what Allied did and how it acted, was what an employer acting fairly and reasonable could do in all the circumstances at the time.

[62] Taking all the factors into consideration I have concluded that an employer acting fairly and reasonably could not have concluded Mr Anderson's employment should be terminated.

[63] The urinating in a cup incident was found by Mr Black to have occurred on only one occasion and Mr Anderson reported this to his team leader at the time. This was not considered serious or even misconduct by the team leader at the time as he took no action over it and did not report it until requested to put something in writing about it during the disciplinary process.

[64] In respect to the failure to follow procedures at ZYX Mr Black was of the opinion that Mr Anderson should be given a final warning and no conclusion was reached with respect to the failure to ensure the secure unit was fully manned.

[65] Mr Black was unable to come to any conclusions about Mr Anderson's culpability when the ZYX area was left below required manning levels on 3/4 September 2013.

[66] It cannot be said with any certainty that following its investigation Allied had reached any conclusions that Mr Anderson's conduct should give rise to the termination of his employment.

[67] I find the decision to dismiss Mr Anderson was pre-determined as it had been made on 5 September 2013 when Mr Black gave him notice that his employment would end either at the end of the four week notice period or on 5 September 2013 depending on his explanations at the disciplinary meeting.

[68] To support this conclusion I have taken into account the contents of an email sent to the client on 4 September 2013 in which Mr Black states (verbatim):

> what are your thoughts. I could process Paul through a disc procedure based on Saturday not wanding and this infor and probably have enough info to remove him? but the team would be pretty weak as it has 2 new staff in training mode and not [client] qualified.
>
> Alternatively we can do the same and final written warning him while we build up the 2 staff competencies. This is my preference as I am 100% sure Paul will do something else in the next few weeks anyway!

[69] It is clear from this email that even prior to undertaking his investigation in to the allegations, Mr Black's perception was that Mr Anderson's demise was imminent. It was after the client confirmed by way of response on 5 September 2013 that it did not want Mr Anderson on site that Mr Black confirmed Mr Anderson's employment would end in his letter dated that same day (as set out in paragraph [37]).

[70] Mr Anderson was Allied's employee, not the client's. Even though the client had instructed Allied that it did not want Mr Anderson on its site Allied had options available to it rather than give Mr Anderson notice, or even suspend him.

[71] Allied has more than one site at which Mr Anderson could work and ideas about Mr Anderson moving to alternative sites were discussed with him. However, Mr Anderson rejected offers to move to another site on the basis that he had been given notice of the termination of his employment.

[72] The employment agreement at clause 1 recognised the need to meet client demands and provided for Mr Anderson to be transferred to any work undertaken by him in any of its client locations within the Waikato Region. This was another option available to Allied.

[73] Mr Black had not lost trust and confidence in Mr Anderson's ability as evidenced by his email on 12 September 2013 asking the client to review its decision regarding Mr Anderson's removal from site and then again on 20 March 2014 stating:

> I'd employ him anytime as he is a good guard just not a good leader. But I know he tried to contact [clients] and I don't know if it was positive or negative. If they have no objections I would have him back if I could.

Remedies

[74] My conclusion Mr Anderson's dismissal was unjustified raises the question of remedies. Mr Anderson seeks lost wages, compensation for hurt and humiliation and costs.

Lost wages

[75] Mr Anderson has two claims under this heading. The first is for wages he lost for the period of his unpaid suspension and the other is for the wages lost as a result of his dismissal.

[76] There is no dispute that Mr Anderson was not paid for two weeks of his suspension. Allied Investments Limited is ordered to pay to Mr Anderson an amount equivalent to two weeks wages within 28 days of the date of this determination.

[77] Section 128 of the Act requires the Authority to order the payment of a sum equal to the lesser of the sum actually lost or 3 months ordinary time remuneration. Additional amounts may be awarded on a discretionary basis and Mr Anderson asks that I exercise this discretion and reimburse his loss in full.

[78] While Mr Anderson took steps to mitigate his loss and commenced new employment in November 2013 there were other steps Mr Anderson could have taken which would have mitigated his loss even further.

[79] The day after the 12 September 2013 disciplinary meeting Mr Black emailed Mr Anderson and offered him work in the Allied office and advised Mr Anderson that other work was also available. Mr Anderson rejected these offers.

[80] There is no reason to believe these offers by Mr Black were not genuine. As evidenced through the correspondence to the client and as set out throughout this determination, Mr Black never lost confidence in Mr Anderson's ability as a security guard.

[81] Mr Anderson had, though, lost confidence in Mr Black as a result of being dismissed on notice on 5 September 2013 without any process or the opportunity to provide his explanations.

[82] Allied Investments Limited is ordered to pay to Mr Anderson an amount equivalent to four weeks wages for the period 4 October to 3 November 2013 inclusive within 28 days of the date of this determination.

Compensation

[83] Mr Anderson seeks a sum of $75,000 as compensation under section 123(1)(c)(i) of the Act.

[84] Mr Anderson and his wife gave compelling evidence as to the affect the dismissal had on Mr Anderson. Mr Anderson gave evidence that losing his job was a terrible blow to him and left him feeling hopeless and helpless at times.

[85] Mrs Anderson gave evidence that Mr Anderson became depressed, suffered from insomnia and developed psoriasis which was attributed to his stress levels. Mrs Anderson's evidence that Mr Anderson loved his job is consistent with emails and other communications from Mr Black.

[86] Mrs Anderson told the Authority that she watched Mr Anderson change from being a jovial, happy-go-lucky man. She also gave evidence that the dismissal affected their relationship.

[87] I have taken a global approach to compensation for the finding that Mr Anderson was unjustifiably dismissed and unjustifiably disadvantaged in his employment.

[88] Subject to my findings on contribution, I am satisfied an award of $15,000 is justified in this case.

Contribution

[89] Having determined that Mr Anderson has a personal grievance I am required to assess the extent to which he contributed to the situation which gave rise to his

grievance and reduce any remedies accordingly.[9] Contribution denotes blameworthy conduct.

[90] The situation refers to all relevant events and includes the factors leading up and including the suspension and the dismissal. Those factors also included that a client had instructed Allied to remove one of its employees from its site.

[91] The allegations against Mr Anderson included, firstly, that he had urinated in a cup on multiple occasions. He did so on one occasion as accepted by Mr Black. Second, Mr Anderson acknowledged that he did not follow the correct procedure when allowing a person access to the secure unit and Mr Black acknowledged that this would warrant a final warning. Finally, Mr Anderson's explanation for the reason why he had failed to ensure a guard was placed at the secure unit at all times seems to have been accepted by Mr Black.

[92] Mr Anderson was aware of his urinary problems and had taken no steps to alert his employer to the difficulties he was experiencing in getting cover to allow him to access the bathroom in a timely manner. Mr Anderson's failure to follow the correct procedures when allowing a person access to the secure unit was blameworthy conduct. It was contrary to the standard operating procedures in place for that site.

[93] It is necessary to reduce the remedies that would otherwise have been awarded by 25%.

[94] Allied Investments Limited is ordered to pay to Mr Anderson the sum of $11,250 pursuant to section 123(1)(c)(i) of the Act within 28 days of the date of this determination.

Costs

[95] Costs are reserved. The parties are invited to resolve the matter between them. If they are unable to do so Mr Anderson shall have 28 days from the date of this determination in which to file and serve a memorandum on the matter. Allied shall have a further 14 days in which to file and serve a memorandum in reply. All

[9] Employment Relations Act 2000 section 124.

submissions must include a breakdown of how and when the costs were incurred and be accompanied by supporting evidence.

[96] The parties could expect the Authority to determine costs, if asked to do so, on its usual 'daily tariff' basis unless particular circumstances or factors require an adjustment upwards or downwards.

Vicki Campbell
Member of the Employment Relations Authority