

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2013] NZERA Auckland 200
5407615

BETWEEN

MONIQUE ATKINSON
Applicant

A N D

COVERALL CLEANING
CONCEPTS NEW ZEALAND
LIMITED
Respondent

Member of Authority: James Crichton

Representatives: Danny Gelb, Advocate for Applicant
No appearance for Respondent

Investigation Meeting: On the papers

Submissions Received: 19 April 2013 from Applicant
No submissions from Respondent

Date of Determination: 20 May 2013

COSTS DETERMINATION OF THE AUTHORITY

The substantive decision

[1] The Authority issued its substantive decision from which this present cost application emanates, on 9 April 2013 as [2013] NZERA Auckland 119. That determination granted Ms Atkinson a compliance order and other remedies in respect of an earlier default by the respondent (Coverall) in complying with an earlier determination of the Authority dated 10 December 2012, reported at [2012] NZERA Auckland 447.

[2] For the avoidance of doubt, a very brief history of this litigation is appropriate. First, Ms Atkinson entered into a record of settlement, the terms of which required Coverall to make certain payments to her. Those payments were not made within time. Ms Atkinson then brought proceedings against Coverall which resulted in the 2012 determination of the Authority in which she was awarded penalties for the late

payment. In the meantime, Coverall paid the sums required of it by the record of settlement.

[3] However, Coverall did not settle the judgment debt created by the 2012 determination of the Authority and it was that failure which resulted in Ms Atkinson applying to the Authority for compliance of the earlier Authority decision, that remedy being granted to Ms Atkinson in the Authority's 2013 decision.

[4] Of course, the Authority, and it fancies Ms Atkinson, thought that the 2013 decision would be an end of the matter but by virtue of the failure of Coverall to meet its obligations under that determination, costs have continued to accrue and the Authority has already determined in the 2013 determination that Ms Atkinson is entitled to an indemnity for her costs because of the complete failure of Coverall to meet any of its obligations on time.

The claim for costs

[5] Ms Atkinson now seeks the fixing of her costs at the amount of \$2,846.25.

[6] In the 2013 determination, the Authority decided that Ms Atkinson was entitled to an indemnity on her costs. Fixing her costs at the figure claimed is consistent with the Authority's earlier disposition of the matter.

The response

[7] There has been no response from Coverall in respect to this current application for costs.

Determination

[8] For reasons already explained, and consistent with the substantive decision of the Authority reported at [2013] NZERA Auckland 119, the Authority now fixes costs for Ms Atkinson in the sum of \$2,846.25. Coverall is to pay that sum to Ms Atkinson to reimburse her for the costs she has incurred in seeking legal redress against Coverall to require it to fulfil its legal obligations.

James Crichton
Member of the Employment Relations Authority

