

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**AA 262A/07
5071574**

BETWEEN NEIL BUCK
 Applicant

AND GOURMET FOODS LIMITED
 Respondent

Member of Authority: Leon Robinson

Submissions received: 7 September 2007
 24 September 2007

Determination: 26 September 2007

DETERMINATION OF THE AUTHORITY AS TO COSTS

[1] I have previously issued a Determination dealing with the employment relationship problem between these parties. That Determination specified a timetable in the event that costs were sought. The respondent Gourmet Foods Limited ("Gourmet"), having successfully defended the applicant Mr Neil Buck's ("Mr Buck") claim against it now asks the Authority to order Mr Buck pay its costs. This Determination disposes of that application for costs.

[2] Mr Ward-Johnson for Gourmet advises its costs after mediation are in the sum of \$6,806.25 inclusive of GST. I do not make an award in respect of costs incurred up to mediation. It is submitted that Mr Buck's claim was without merit and had no prospect of success. Counsel also refers to a refusal by Mr Buck to enter into negotiations regarding costs and advises Gourmet seeks an award in the sum of \$6,000.00.

[3] Mr Single for Mr Buck, says there was telephone communication between the representatives in an endeavour to resolve costs but that agreement could not be reached. Mr Single asks that costs be left to lie where they fall. He advises that in the alternative Mr Buck is able to meet an award of \$1,500.00. It is submitted that Mr

Buck would have difficulty meeting an award in excess of that sum because he now resides in Hawkes Bay and has the sole care of his teenage son.

[4] The exercise of my discretion calls for a determination of what is a fair and reasonable contribution as between the parties. The Authority adopts a principled approach taking into account relevant matters and having no regard for irrelevant ones.

[5] The investigation meeting proceeded over less than one day. Gourmet successfully resisted Mr Buck's claim and is therefore to be regarded as the successful party. It is entitled to a contribution to its costs. Costs awards in the Authority are modest and in this instance, I see no reason to depart from the conventional daily tariff approach.

[6] Accordingly, exercising my discretion on a principled basis, and taking all the above matters into account, I conclude a contribution of \$1,500.00 is appropriate. **I order Neil Buck to pay to Gourmet Foods Limited the sum of \$1,500.00 as a contribution to costs.**

Leon Robinson
Member of Employment Relations Authority