

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

[2017] NZERA Christchurch 67  
5626969

BETWEEN

SAMUEL BENNETT  
Applicant

AND

DEAN KANE LANGDON  
trading as DKL  
CONSTRUCTION  
Respondent

Member of Authority: Christine Hickey

Representatives: David Beck, Counsel for the Applicant  
No appearance for the Respondent

Costs submissions received: From the Applicant on 5 December 2016  
No submissions from the Respondent

Determination: 1 May 2017

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**COSTS DETERMINATION OF THE AUTHORITY**

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**Within 28 days of the date of this determination, Dean Kane Langdon must pay Samuel Bennett \$2,249.37 being legal costs and the filing fee.**

[1] On 29 November 2016, I issued a determination that Dean Kane Langdon unjustifiably constructively dismissed Samuel Bennett. I awarded remedies to Mr Bennett totalling \$15,390.00. I also imposed a penalty of \$3,500.00 of which \$1,000.00 must be paid to Mr Bennett.

[2] Mr Bennett was legally aided. Because he achieved monetary remedies, he is required to pay back the grant of legal aid.

[3] Mr Beck has made submissions, applying for the total cost of legally aided services at \$2,177.81 and the filing fee of \$71.56.

[4] I have issued this determination later than the three-month period allowed after receiving the last documents from the parties. I record that the Chief of the Authority has decided under 174C(4) of the Employment Relations Act 2000 (the Act) that exceptional circumstances existed for providing this written determination later than the latest date specified in s 174C(3)(b) of the Act.

[5] Generally, the unsuccessful party can expect to make a reasonable contribution towards the successful party's costs.

[6] As at 23 May 2016, the date the proceedings were lodged in the Authority, the usual daily tariff awarded the successful party for a one day investigation meeting was \$3,500. The meeting took less than one day but I am satisfied that Mr Beck had to prepare fully for the eventuality that Mr Langdon would attend the investigation meeting, although in the event he did not.

[7] The amount claimed is 62% of the daily tariff. While it is unusual to award indemnity, or full, costs I consider that the amount claimed of \$2,177.81 is a very reasonable charge for Mr Beck's work, and it is reasonable to expect Mr Langdon to pay. In coming to this decision I have considered the principles set down in *PBO Limited (formerly Rush Security Ltd) v Da Cruz*<sup>1</sup> and *Fagotti v Acme & Co Limited*.<sup>2</sup>

[8] Mr Langdon must also pay the \$71.56 filing fee it cost to lodge the proceedings in the Authority.

Christine Hickey  
Member of the Employment Relations Authority

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<sup>1</sup> [2005] ERNZ 808, a judgment of the Full Court of the Employment Court, at page 819.

<sup>2</sup> [2015] NZEmpC 135