



# New Zealand Employment Relations Authority Decisions

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## **Bennett v Langdon t/a DKL Construction (Christchurch) [2017] NZERA 1067; [2017] NZERA Christchurch 67 (1 May 2017)**

Last Updated: 20 May 2017

**IN THE EMPLOYMENT RELATIONS AUTHORITY CHRISTCHURCH**

[2017] NZERA Christchurch 67  
5626969

BETWEEN SAMUEL BENNETT Applicant

AND

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

**COSTS DETERMINATION OF THE AUTHORITY**

**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.

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[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

<sup>1</sup> [\[2005\] NZEmpC 144](#); [\[2005\] ERNZ 808](#), a judgment of the Full Court of the Employment Court, at page 819.

<sup>2</sup> [\[2015\] NZEmpC 135](#)