

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA188A/10
5166947

BETWEEN LOUIS BOTES
 Applicant

AND ENGINEERING RECRUITERS
 LIMITED
 Respondent

Member of Authority: Marija Urlich

Representatives: Max Whitehead, Advocate for Applicant
 Ray Parmenter, Counsel for Respondent

Submissions received: 24 May 2010 from Applicant
 17 and 25 May 2010 from Respondent

Determination: 14 June 2010

COSTS DETERMINATION OF THE AUTHORITY

[1] In a determination dated 26 April 2010 (AA188/10) I found Mr Botes had a claim for unjustified disadvantage relating to his suspension and made a modest compensatory award in his favour. He was unsuccessful in his major claim of unjustified dismissal as well as related claims concerning reimbursement of expenses and access to personal information. Costs were reserved and in the usual way a timetable was set for filing memoranda if discussions between the parties did not resolve the costs issue.

[2] In his memorandum to the Authority I understand Mr Whitehead to advise Mr Botes costs in relation to this matter exceed \$4000 and that he seeks a contribution towards those costs of \$1500 plus disbursements of \$70

[3] Mr Parmenter submits that an award of costs in favour of the respondent is warranted given the applicant failed in his major claim.

Determination

[4] *PBO Ltd v Da Cruz*¹ sets out the appropriate principles to be applied by the Authority in exercising its costs discretion.

[5] It is usual that costs follow the event. Mr Botes has achieved a degree of success albeit modest. The parties were directed to attempt to resolve the costs issue themselves. I understand this did not occur. It should have. The assertion made to the Authority that the respondent's memorandum was filed outside the timetable was not correct. The respondent's memorandum was informal but informality is not of itself disrespectful and I accept Mr Parmenter's statement that no disrespect was intended.

[6] In the circumstances, in particular the nature of the matters before the Authority and the modest level of success enjoyed by Mr Botes it is appropriate that Engineering Recruiters reimburse Mr Botes the filing fee incurred plus \$500 towards his costs.

[7] **Engineering Recruiters Limited is ordered to pay Louis Botes \$570 in costs, pursuant to clause 15 of Schedule 2 of the Employment Relations Act 2000.**

Marija Urlich

Member of the Employment Relations Authority

¹ [2005] 1 ERNZ 808