

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Aaron Calman (Applicant)
AND The London Shed Company Limited (Respondent)
REPRESENTATIVES Miranda Harvey, Counsel for Applicant
Jane Latimer, Counsel for Respondent
MEMBER OF AUTHORITY Dzintra King
MEMORANDA RECEIVED 25 January 2006 from Respondent
10 February 2006 from Applicant
DATE OF DETERMINATION 26 April 2006

DETERMINATION OF THE AUTHORITY

The respondent was successful in defending a claim by the applicant that he was an employee and not a contractor. The respondent now seeks costs. The respondent's actual costs were \$9,658 plus GST. Deducting the cost of junior counsel from this sum leaves a balance of \$9,146. The respondent seeks an award of between \$3,000 and \$4,000.

The Investigation was short – one and a half hours. I accept that this was in part because both parties filed detailed statements and had filed documents in advance as required by the Authority.

The applicant says that costs should be in the region of \$850 to \$1,250.

I agree with the applicant that the amount claimed by the respondent is excessive. While it is undoubtedly useful training for a junior to appear in the Authority alongside a senior practitioner, I do not think that the applicant should have to pay for the costs of Ms Latimer's appearance alongside Ms Clark.

This was relatively straightforward matter complicated only by the clearly poor relationship between the parties. Allowing 8 hours preparation time and adding one and half hours for the hearing gives a total of 9.5 hours. Assuming an hourly fee of \$300 gives a total of \$2,850. The question then is what is a reasonable contribution to these reasonably incurred fees.

The applicant is to pay the respondent the sum of \$1,500.

Dzintra King
Member of Employment Relations Authority