

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2018] NZERA Auckland 134  
3016251

BETWEEN	SAMANTHA CARTER Applicant
AND	GRAVITY TRAMPOLINE NZ LIMITED ( <i>In liquidation</i> ) First Respondent
AND	DIALLED TGA (2015) LIMITED Second Respondent

Member of Authority: Vicki Campbell

Representatives: Craig Horsley for Applicant  
Kelvin Travers for Respondent

Submissions received: 23 March 2018 from Applicant  
No submissions from Respondent

Determination: 1 May 2018

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**COSTS DETERMINATION OF THE EMPLOYMENT RELATIONS  
AUTHORITY**

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**A. Dialled TGA (2015) Limited is ordered to pay to Ms Carter costs of \$3,175.06 within 14 days of the date of this determination.**

[1] In a determination dated 7 March 2018<sup>1</sup> I held Ms Carter was unjustifiably dismissed and owed arrears of wages. I ordered Dialled TGA (2015) Limited to pay lost wages and compensation for the dismissal grievance and to make payment of the arrears of wages.

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<sup>1</sup> [2018] NZERA Auckland 81..

[2] I reserved costs, indicating that if the parties were unable to resolve the matter, both parties would have the opportunity to file cost memoranda and evidence. The parties have been unable to resolve the matter. Ms Carter has applied for costs. No memorandum was lodged by Dialled TGA.

[3] On 5 April Mr Travers notified the Authority that he intended challenging the determination in the Employment Court and purported to make an application for stay. The Authority Officer managing this matter advised Mr Travers that making an election under s 179 does not operate as a stay of proceedings on the determination of the Authority unless the court or Authority so orders.<sup>2</sup>

### **Determination of costs**

[4] The discretion to award costs, while broad, is to be exercised in a principled way. The primary principle is that costs follow the event. Under normal circumstances the Authority would apply a starting point of a notional daily tariff for quantifying costs.

[5] The Authority has the power to order any party to pay to any other party such costs and expenses as the Authority thinks reasonable.<sup>3</sup> The principles applying to costs are well settled and do not require repeating.<sup>4</sup>

[6] An assessment of costs will normally start with the notional daily tariff which is \$4,500 for the first day of an investigation meeting and \$3,500 for each subsequent day.<sup>5</sup>

[7] The Authority has been provided with evidence that Ms Carter incurred costs of \$5,663.75 plus disbursements amounting to \$175.06. These costs were reasonably incurred. The investigation meeting took just under one day which means the starting point is \$4,500.

[8] The disbursements sought by Ms Carter include the lodgement fee of \$71.56 plus a process server fee of \$103.50. This fee was necessary because the Authority's

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<sup>2</sup> Employment Relations Act 2000, s 180.

<sup>3</sup> Employment Relations Act 2000, Schedule 2, clause 15.

<sup>4</sup> *PBO Ltd v Da Cruz* [2005] 1 ERNZ 808, 819-820 and *Fagotti v Acme & Co Limited* [2015] NZEmpC 135 at [106] – [108].

<sup>5</sup> Practice Note 2, Costs in the Employment Relations Authority.

attempts to serve the statement of problem on Dialled TGA were unsuccessful and Ms Carter was directed to affect personal service.

[9] Taking all the circumstances into account I consider it appropriate that Dialled TGA (2015) Limited pay Ms Carter the amount of \$3,000 as a contribution to her costs plus \$175.06 in disbursements making a total of \$3,175.06. Payment must be made within 14 days of the date of this determination.

Vicki Campbell  
Member of the Employment Relations Authority