

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

AA 325A/08  
5112817

BETWEEN                      CHRISTOPHER                      JAMES  
   CAUSER                                      CAUSER  
   Applicant                                      Applicant

AND                                      GLEESON                      &                      COX  
   TRANSPORT LIMITED                                      &                      COX  
   Respondent                                      Respondent

Member of Authority:                      Marija Urlich

Representatives:                                      In person, Applicant  
   Eddie Mann, for Respondent

Submissions received:                      6 October 2008, from Applicant  
   25 September 2008 from Respondent

Determination:                                      4 November 2008

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**COSTS DETERMINATION OF THE AUTHORITY**

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[1]     In a determination dated 16 September 2008 (AA325/08) I declined Mr Causer's claim for unjustified constructive dismissal. Costs were reserved. Memoranda had been filed setting out the parties' respective positions in respect of costs.

[2]     In his memorandum to the Authority Mr Mann advised Gleeson & Cox's costs total \$3,307.50 (inclusive of GST). Disbursements were not separately quantified. He submits that Mr Causer should have to pay those costs in full because:

- Gleeson & Cox were wholly successful in defending Mr Causer's claim;
- Mr Causer's claim was unrealistic and unsubstantiated before and during the Authority hearing, this put the Gleeson & Cox to additional cost; and

- Mr Causer failed to take up an offer from Gleeson & Cox to meet prior to the hearing to resolve the matter.

[3] Mr Causer stands by his claim that he was unfairly treated and does not feel he should contribute to Gleeson & Cox's costs.

### **Determination**

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

[5] It is usual that costs follow the event and I find that an award of costs is warranted in this matter. However, grounds for indemnity costs do not exist. Mr Causer was entitled to represent himself at the Authority and that in itself should not warrant a higher than usual award of costs. Though the issues between the parties spanned only a few weeks I accept Mr Causer's reaction to those events was sincere and during the investigation meeting he was able to provide specific details of the issues which caused him concern. As a consequence of that evidence the Authority conducted further inquiry after the investigation meeting which may have put Gleeson & Cox to further cost.

[6] In these circumstances, accepting \$2000 to \$3000 as a usual notional daily rate in the Authority and given the investigation meeting took about ½ a full hearing day; I set the costs award at \$1000.

**[7] Mr Christopher Causer is ordered to pay \$1000.00 to Gleeson & Cox Limited in costs, pursuant to clause 15 of Schedule 2 of the Employment Relations Act 2000.**

Marija Urlich

Member of the Employment Relations Authority

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<sup>1</sup> [2005] 1 ERNZ 808