

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

CA 83/08  
5106759

BETWEEN

DAVID CHAMBERS  
Applicant

AND

MICHAEL BOURGEOIS  
JOINERY LIMITED  
Respondent

Member of Authority: James Crichton

Representatives: Carla Jones, Advocate for Applicant  
Michael Bourgeois for Respondent

Submissions received: 12 May 2008 from Applicant  
30 May 2008 from Respondent

Determination: 20 June 2008

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**COSTS DETERMINATION OF THE AUTHORITY**

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**The application for costs**

[1] Proceedings were originally filed in the Employment Relations Authority on 19 November 2007, then amended and re-filed on a different basis on 18 February 2008.

[2] The substantive issues between the parties were resolved by agreement but the matter of the costs that the applicant party was put to in getting that agreement remain in issue.

[3] The applicant requests that an order be made by the Authority for the respondent to pay to the applicant the sum of \$423 being two thirds of the cost of the additional legal fees that the applicant has sustained as a consequence of the continuing default of the respondent employer.

[4] In response to that claim, the respondent indicates its willingness to pay half of the applicant's costs.

### **Discussion**

[5] The Authority's discretion in respect to costs is well understood. The principals that apply have been helpfully set out in the recent decision of the full bench of the Employment Court in *PBO Ltd v. Da Cruz* ACA2A/05.

[6] In the present case, the short point is that Mr Chambers has been put to additional legal expense in order to enforce obligations which the respondent Michael Bourgeois Joinery Limited had already committed to undertaking or which Michael Bourgeois Joinery Limited had by way of a statutory obligation.

[7] In those circumstances, it seems to the Authority iniquitous that the applicant Mr Chambers should have to bear any of the costs associated with legitimately pursuing his former employer in order to force the employer to do that which he has already promised to do or which he has a statutory obligation to perform in any event.

[8] In those circumstances, the proper course of action is for the full amount to be paid by the respondent and accordingly I direct that the respondent Michael Bourgeois Joinery Limited is to pay to the applicant David Chambers care of his advocate, Phil Butler & Associates Limited the sum of \$704.50 being the full costs of the legal fees incurred by Mr Chambers together with reimbursement of the filing fee which Mr Chambers has incurred as a consequence of having to file applications in the Authority.

James Crichton  
Member of the Employment Relations Authority