

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

[2012] NZERA Christchurch 266  
5366448

BETWEEN                      TONY CLEAVER  
   Applicant  
  
A N D                              TONY HALL  
   Respondent

Member of Authority:        Alastair Dumbleton  
  
Submissions Received        29 October 2012, from Applicant only  
  
Date of Determination:       5 December 2012

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**COSTS DETERMINATION OF THE AUTHORITY**

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[1]     In its determination of 16 October 2012 – [2012] NZERA Christchurch 224 – the Authority found that the applicant Mr Tony Cleaver had been unjustifiably dismissed by the respondent Mr Tony Hall and had a personal grievance for that reason.

[2]     To resolve the grievance the Authority ordered Mr Hall to reimburse Mr Cleaver lost wages for a period of 17 weeks and to compensate him \$4,500 for hurt feelings and humiliation.

[3]     Costs were reserved by the Authority in its determination. Mr Cleaver has applied for an award. Submissions in response have not been received from Mr Hall, who had until 14 November 2012 to provide any. I note that on 9 November the Authority’s determination was challenged by Mr Hall to the Employment Court.

[4]     In submissions for Mr Cleaver reference is made to the length of the investigation meeting, which was half a day. It is submitted that as the successful party Mr Cleaver should be entitled to an award and that the amount should be a proportion of the Authority’s ‘daily tariff.’ On that basis an award of \$1,500 is sought

as a reasonable contribution to Mr Cleaver's costs of legal representation by counsel Mr Donnelly.

[5] I consider \$1,500 is appropriate in the circumstances and accords with principle, particularly as set out in the Employment Court decision of *PBO Ltd v. Da Cruz* [2005] 1 ERNZ 808.

[6] The Authority's notional daily tariff currently is \$3,500, which is not fixed but may be adjusted up or down to reflect the circumstances of each case. The claim in this case was for slightly less than half the daily rate. There are no reasons for increasing or decreasing that rate in this case, the determination of which turned on findings of fact made by the Authority as to whether an assault had occurred and whether the employment had ended by dismissal or resignation.

### **Determination**

[7] Pursuant to clause 15 of Schedule 2 of the Employment Relations Act 2000, Tony Hall is ordered to pay \$1,500 costs to Tony Cleaver. Mr Hall is also to reimburse Mr Cleaver the \$71.56 filing fee of the claim.

A Dumbleton  
**Member of the Employment Relations Authority**