



# New Zealand Employment Relations Authority Decisions

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## **Clothier v Fashion Traders Limited AA418A/10 (Auckland) [2010] NZERA 877 (19 November 2010)**

Last Updated: 29 November 2010

**IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND**

AA 418A/10 5298163

BETWEEN ALICE CLOTHIER

Applicant

AND FASHION TRADERS LIMITED

Respondent

Member of Authority: Vicki Campbell

Representatives: Kerry Single for Applicant

Rani Amaranathan for Respondent

Submissions received: 12 October 2010 from Applicant

21 October 2010 from Respondent

Determination 19 November 2010-11-29

### **COSTS DETERMINATION OF THE AUTHORITY**

[1] Ms Clothier's claim that she was unjustifiably dismissed by reason of redundancy was upheld by the Authority in its determination AA418/10 dated 21 September 2010 with respect to the failure to consult only. The hearing took less than 1/2 a day and was not overly complex.

[2] In its determination the Authority reserved the question of costs and invited the parties to resolve the matter between them. It seems, consistent with its failure to adhere to directions to attend mediation, the respondent in this matter has failed to enter into dialogue with a view to resolving the matter of costs.

[3] I have read carefully the submissions from both parties with respect to the issue of costs. Ms Clothier's total costs amounted to \$2,330.80 of which \$80.80 was disbursements.

[4] The principles appropriate to the exercise of the Authority's discretion in relation to costs are set out in *PBO Ltd (formerly Rush Security Ltd) v Da Cruz*<sup>[1]</sup>. Costs will

generally follow the event and awards will be modest. However, in exercising its discretion to award costs the Authority is required to first consider whether the costs incurred by Ms Clothier were reasonable in all the circumstances.

[4] The principles appropriate to the exercise of the Authority's discretion in relation to costs are set out in *PBO Ltd (formerly Rush Security Ltd) v Da Cruz*<sup>1</sup>. Costs will generally follow the event and awards will be modest. However, in exercising its discretion to award costs the Authority is required to first consider whether the costs incurred by Ms Clothier were reasonable in all the circumstances.

[5] I have concluded, based on other similar cases I have determined in the Authority and the length of the hearing, the actual costs incurred by Ms Clothier are reasonable.

[6] Having regard to the nature and length of the investigation meeting and in the principled exercise of my discretion I **order Fashion Traders Limited to pay to Ms Clothier the amount of \$1,000 plus \$80.80 in disbursements, as costs.**

Vicki Campbell

1 [\[2005\] NZEmpC 144](#); [\[2005\] 1 ERNZ 808](#).

Member of Employment Relations Authority

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