

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 78/10
5124957

BETWEEN DEBBIE COOMBES
 Applicant

AND WAIKATO DISTRICT
 HEALTH BOARD
 Respondent

Member of Authority: Alastair Dumbleton

Submissions Received 12 November 2009, from Respondent

Determination: 17 February 2010

COSTS DETERMINATION OF THE AUTHORITY

[1] In determining (under AA 339/09 of 17 September 2009) that the Waikato District Health Board had not acted unreasonably, unfairly or in breach of the employment agreement it had with Ms Debbie Coombes, the Authority reserved the question of costs.

[2] The parties' advocates, Mr Peploe and Mr Taylor, were requested to try and resolve by agreement any issue about costs and, if that could not be done, application could be made to the Authority. In that event, a copy of it was to be served on Mr Taylor who would have 14 days in which to reply.

[3] A costs submission was received from the Board on 12 November 2009. The covering letter indicates that it was forwarded to Mr Taylor on or about 6 November. Any reply should therefore have been received by the end of November or early December 2009, at the latest. There has been no response from Mr Taylor or Ms Coombes, the applicant.

[4] In the Board's memorandum in relation to costs, the principles referred to in the leading case of *PBO Ltd v. Da Cruz* [2005] 1 ERNZ 808 are referred to. In particular, there is a discretion as to whether costs are awarded and the amount of any costs.

[5] The Board seeks a reasonable contribution in the sum of \$1,500.

[6] Ms Coombes' claims were of some factual complexity and unfortunately in presentation were not fully focused. The preparation required by the Board and the length of meeting was affected by those things.

[7] For an investigation meeting of two days in a case of this type, \$1,500 is an entirely reasonable amount as a contribution to overall costs which, as well as the time taken in preparation by Mr Peplow, the Board's in-house employment advocate, included the considerable time of a number of Board witnesses whose evidence was required.

[8] I consider that \$1,500 is appropriate as an amount for Ms Coombes to pay the Board as compensation for the expense it was put to in taking part in this investigation. In the result the Board was successful.

[9] Pursuant to clause 15 of Schedule 2 of the Employment Relations Act 2000, Ms Coombes is therefore ordered to pay \$1,500 in costs to the Waikato District Health Board.

A Dumbleton
Member of the Employment Relations Authority