

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

[2018] NZERA Christchurch 126  
3023297

BETWEEN            PHILLIP COOPER  
                                 Applicant  
  
A N D                UNIT SERVICES  
                                 WELLINGTON LIMITED  
                                 Respondent

Member of Authority:     Peter van Keulen  
  
Representatives:         Ruth Pettengell, Advocate for Applicant  
                                 Peter Tonks, Representative for Respondent  
  
Submissions Received:    30 July 2018 for applicant  
                                 No submissions received for respondent  
  
Date of Determination:    28 August 2018

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**COSTS DETERMINATION OF THE AUTHORITY**

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**The substantive determination**

[1]     In a determination dated 20 July 2018<sup>1</sup>, I determined that Unit Services Wellington Limited had acted unjustifiably toward Phillip Cooper but it had not breached Mr Cooper's employment agreement. I awarded Mr Cooper remedies of \$4,000.00 compensation and \$888.00 (gross) reimbursement.

[2]     In my determination, I reserved costs in order to give the parties an opportunity to try and resolve the question of costs. The parties have been unable to agree costs and Ms Pettengell now seeks costs on behalf of Mr Cooper.

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<sup>1</sup> [2018] NZERA Christchurch 102

## **Discussion**

[3] I have considered the power to award costs, set out in clause 15 of Schedule 2 of the Employment Relations Act 2000. I have also considered the principles set out in *PBO Ltd (formerly Rush Security Ltd) v. Da Cruz*<sup>2</sup> and other relevant Employment Court and Court of Appeal decisions<sup>3</sup>.

[4] I am satisfied that it is appropriate to award costs to Mr Cooper, as he was the successful party in this claim. And, based on the guidance referred to above it is appropriate to base an award of costs on the daily tariff.

[5] My investigation meeting took less than one half day, so based on the daily tariff of \$4,500.00 for the first day of an investigation meeting I consider \$2,000.00 to be the starting point.

[6] I must then consider if the daily tariff should be adjusted up or down for any particular reason.

[7] This case was a standard employment relationship problem with no additional features that would warrant an adjustment to the daily tariff.

## **Determination**

[8] Unit Services must pay Mr Cooper \$2,000.00 as a contribution to the costs incurred in this matter plus disbursements of \$71.56 for the filing fee on Mr Cooper's statement of problem.

Peter van Keulen  
Member of the Employment Relations Authority

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<sup>2</sup> [2005] 1 ERNZ 808

<sup>3</sup> *Victoria University of Wellington v. Alton-Lee* [2001] ERNZ 305, *Blue Star Print Group (NZ) Ltd v. Mitchell* [2010] NZCA 385, *Booth v. Big Kahuna Holdings Ltd* [2015] NZEmpC 4, *Stevens v. Hapag-Lloyd (NZ) Ltd* [2015] NZEmpC 28, *Davide Fagotti v. Acme & Co Ltd* [2015] NZEmpC 135