



# New Zealand Employment Relations Authority Decisions

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## Coventry v Singh t/as 4 Square Design (Auckland) [2011] NZERA 422; [2011] NZERA Auckland 275 (27 June 2011)

Last Updated: 7 July 2011

IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND OFFICE

[2011] NZERA Auckland 275 5322900

BETWEEN

AND

NOEL DESMOND  
COVENTRY  
Applicant

VINCENT SINGH T/A 4 SQUARE DESIGN Respondent

Member of Authority: Representatives:

Submissions received:

Determination:

Yvonne Oldfield

Clive Bennett, for Applicant Vincent Singh in person

26 April 2011 from Applicant No response from Respondent

Monday 27 June 2011

### COSTS DETERMINATION OF THE AUTHORITY

[1] Mr Coventry's substantive employment relationship problem was the subject of a determination dated 1 April 2011 in which orders were made for arrears of wages and holiday pay (with interest) along with lost earnings and compensation in respect of his unjustified dismissal.

[2] That determination also contains the following relevant passage:

*"In the Statement in Reply the respondent party was identified as [Vincent Singh]. At the Investigation Meeting I asked Mr Singh about his business arrangements and he told me that he was operating through a limited liability company called 4 Square Design Limited. However a check of the Companies Register had revealed that this company was incorporated on 3 December 2010, well after Mr Coventry's association with the business had ended. A director search by the name of Vincent Singh gave no results other than 4 Square Design Limited. The respondent in these proceedings therefore continues to be Mr Vincent Singh in person."* [3] Costs submissions were lodged on Mr Coventry's behalf on 26 April 2011. They were sent by courier to the address which had been used for service on Mr Singh during the substantive proceedings and which I understand to have been the location of his business premises. This was consistent with Employment Relations Authority Regulation 16 (3) (b) (vi) which provides that where an address for service has been provided, service may be effected by sending the notice, order, or document by registered post, ordinary post, or courier to that address for service.

[4] The costs submissions were returned to the Authority unopened. The Officer of the Authority responsible for the file then arranged for them to be sent by courier to a private address shown on the Companies' Register for Mr Singh in his capacity as

director of 4 Square Design Limited. This was consistent with Regulation 16 (3) (b) (viii) which provides that service may be effected:

*"in such other manner as the Authority or an officer of the Authority directs."*

[5] Unfortunately however they were once again returned unopened. This time the file was referred to me for directions. I instructed that the papers were to be served on Mr Singh care of the address for service provided on the Companies' Register for 4 Square Design Limited. I am advised that a "track and trace" confirmed receipt of the documents at that address (a firm of accountants) on 10 June 2011. I am satisfied that the applicant's costs' submissions have in this way been brought to Mr Singh's attention.

[6] The covering letter which accompanied the submissions required Mr Singh's response within seven days. Nothing having been received from him, I now proceed to determine the question of costs on what I have.

### **Determination**

[7] It is submitted for the applicant that since he was successful in his application, costs should follow the event. The Authority was told that Mr Coventry incurred costs of \$3,795.00 and disbursements of \$346.60 in the course of preparation for and attendance at a one day investigation meeting which required two witness statements.

[8]

Full costs were sought on the basis that:

- the costs incurred were reasonable in all the circumstances;
  - without an award of full costs Mr Coventry's expenses would reduce the amount he was awarded to compensate him for hurt and humiliation;
- the principle of the matter was important to the applicant;
- the case for the applicant was conducted efficiently;
  - the respondent was unwilling to resolve the problem and failed to attend a scheduled mediation;
  - the investigation meeting was protracted by uncertainty about the respondent's representation;
  - the applicant's financial circumstances have suffered as a result of the employment relationship problem, and
  - the respondent is in a position where it would be able to pay the applicant's costs.

[9] It is accepted that the case for the applicant was conducted efficiently and that his costs were reasonable. It is also accepted that the respondent caused the investigation meeting to start late. The respondent's contribution to the applicant's costs should reflect what would normally be awarded for a full day of investigation meeting rather than the part day which this matter actually took in the end.

[10] The applicant is also correct in its assertion that the respondent failed to attend mediation despite having been directed to do so. In all the circumstances this is a case for a higher than average award of costs. Given that full costs did not greatly exceed what has come to be called the "tariff for a one day matter, I accept that full costs are in order in this case.

**[11] The respondent is therefore ordered to pay to Mr Coventry the sum of \$3,795.00 in costs as well as disbursements of \$346.60.**

Yvonne Oldfield

Member of the Employment Relations Authority