

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2014] NZERA Auckland 54  
5416116

BETWEEN                      MICHAEL PETER CRAIG  
   Applicant  
  
A N D                              GRANT AND MARGARET  
   BOLSTAD  
   Respondent

Member of Authority:      K J Anderson  
  
Representatives:              T de Lautour, Advocate for Applicant  
   M Bolstad, Advocate for Respondents  
  
Submissions Received:      24 December 2013 from Respondent  
   Nil from Applicant  
  
Date of Determination:      17 February 2014

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**COSTS DETERMINATION OF THE AUTHORITY**

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[1] By a determination issued on 27 November 2013<sup>1</sup>, the Authority found that there was a valid trial period in Mr Craig's employment agreement and hence pursuant to s.67B(2) of the Employment Relations Act 2000 (the Act), Mr Craig was prevented from bringing a personal grievance to the Authority for investigation. The parties were requested to resolve the matter of costs but this has not been possible. The Authority has now received costs submissions from the respondent but the applicant appears to have chosen not to lodge any.

[2] The submissions for the respondent inform that costs of \$6,225.35 (inclusive of GST) were incurred in defending the claims advanced by Mr Craig. The respondent asks the Authority to award costs in the sum of \$2550, plus disbursements of \$450. The latter figure includes \$400 travel costs and \$50 photocopying and courier

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<sup>1</sup> [2013] NZERA Auckland 543

expenses. However, the cost of photocopying is not recoverable as a disbursement.<sup>2</sup> And while the courier costs are a valid disbursement that can be recovered, no separate details relating to them has been provided therefore they cannot be considered.

[3] In regard to the costs claim relating to the professional fees incurred, the respondent acknowledges the daily tariff approach commonly used by the Authority (currently \$3,500 for each day of an investigation meeting) and says that as the investigation meeting took approximately 5 hours, then an award of costs, inclusive of disbursements, in the sum of \$3,000 would be appropriate.

[4] The notes of the Authority show that that the investigation meeting occupied just on 3 hours; hence costs in the sum of \$1,500 would be appropriate. Addressing the travel costs, it is only appropriate to accept such for the day of the investigation meeting: that is, \$136.50 (as invoiced).

### **Determination**

[5] Pursuant to clause 15 of Schedule 2 of the Act, Mr Craig is ordered to pay to Grant and Margaret Bolstad the sum of \$1,636.50 (\$1,500 + \$136.50) as a contribution to the costs incurred.

**K J Anderson**  
**Member of the Employment Relations Authority**

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<sup>2</sup> See *New Zealand Professional Firefighters Union v The New Zealand Fire Service Commission* EmpC WC9A/08 and more recently, *Air New Zealand Ltd v Kerr* [2013] EmpC 237.