

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2012] NZERA Auckland 358
5378259

BETWEEN LYNDSEY CRAIG
Applicant

A N D ST GEORGE INTERNATIONAL
GROUP LIMITED
Respondent

Member of Authority: Rachel Larmer

Representatives: Mike Treen, Advocate for Applicant
Scarlett Cooper, Chief Executive Office of the
Respondent

Submissions Received 17 September 2012 from Applicant
18 September 2012 from Respondent

Date of Determination: 11 October 2012

COSTS DETERMINATION OF THE AUTHORITY

A. Within 28 days of the date of this determination St George International Group Limited (St George) is ordered to pay Ms Lyndsey Craig:

(a) \$5,000 towards her legal costs; and

(b) \$71.56 to reimburse her filing fee.

Employment relationship problem

[1] In a substantive determination dated 30 August 2012¹ the Authority held that St George's dismissal of Ms Craig was procedurally and substantively unjustified. She was wholly successful in her claims. The parties were encouraged to resolve costs by agreement but failing that a timetable was set for costs to be dealt with by an exchange of memoranda.

¹ [2012] NZERA Auckland 297

[2] Agreement was not reached and Ms Craig has applied for a costs order in her favour.

Parties' submissions

[3] Ms Craig says she has incurred costs of \$5,000 and that she has been invoiced for that amount by Unite Union. She seeks an order for that full amount.

[4] St George says it can pay \$2,000 costs but it did not provide any information about how it had arrived at that figure or about its current financial position.

Costs principles

[5] The Authority's power to award costs arises from Schedule 2, clause 15 of the Employment Relations Act 2000 (the Act). This confers a wide discretion on the Authority to award costs, on a principled basis.

[6] The principles guiding the Authority's approach to costs are set out by the Full Court of the Employment Court in *PBO Ltd (formerly Rush Security Ltd) v. Da Cruz*². Those principles are so well recognised that I do not need to restate them.

[7] The general principle is that costs follow the event, and there is no reason to depart from that in this case. Accordingly, Ms Craig as the successful party is entitled to a contribution towards her actual legal costs.

Outcome

[8] I am satisfied that Ms Craig has incurred legal costs of \$5,000 plus a filing fee of \$71.56.

[9] I adopt the Authority's usual daily tariff based approach to costs. This matter involved a one and a half day investigation meeting so the notional starting point for assessing costs is \$5,250.³

² [2005] 1 ERNZ 808

³ Current notional daily tariff of \$3,500 x 1.5 days.

[10] The Authority may not award a party costs greater than those it has actually incurred. Because Ms Craig has only incurred \$5,000 of costs I limit her costs award to that amount.

[11] St George is ordered to reimburse Ms Craig her filing fee of \$71.56 and to pay Ms Craig \$5,000 towards her legal costs within 28 days of the date of this determination.

Rachel Larmer
Member of the Employment Relations Authority