

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2013] NZERA Auckland 453
5385321

BETWEEN D
 Applicant

AND E LIMITED
 Respondent

Member of Authority: R A Monaghan

Representatives: D Erickson, counsel for applicant
 G Mayes, counsel for respondent

Memoranda received: 23 September 2013 from applicant
 2 and 27 September 2013 from respondent

Determination: 4 October 2013

COSTS DETERMINATION OF THE AUTHORITY

[1] In a determination dated 5 August 2013 I found that D did not have a personal grievance on the ground of sexual harassment because not all of the statutory components of such a grievance had been met, and that she was not constructively dismissed.

[2] Costs were reserved, and the parties have filed memoranda on the matter.

[3] The orders at [6] in the 5 August determination prohibiting the publication of certain information remain in force.

[4] Counsel for E Ltd sought a contribution to costs in the sum of \$7,000. She relied on the principles in *PBO Limited (formerly Rush Security Limited) v da Cruz*¹ and the notional daily rate in the Authority of \$3,500. She calculated the amount sought with reference to that rate, and the meeting time of 2 days.

¹ [2005] 1 ERNZ 808

[5] Counsel for D asked that costs lie where they fall. He said in support that:

- E Limited was not wholly successful;
- for the reasons disclosed in her affidavit, D would suffer financial difficulty if required to contribute to costs in the sum of \$7,000.

[6] I do not consider E Ltd was wholly successful. I consider it in the interests of justice that costs lie where they fall, and order accordingly.

R A Monaghan

Member of the Employment Relations Authority