

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2014] NZERA Auckland 202
5407732

BETWEEN LORRAINI DISOIBAU
 Applicant

AND BOB N LAL t/as THE BAKE
 HOUSE
 Respondent

Member of Authority: R A Monaghan

Representatives: M Moncur, advocate for applicant
 V Raman and S Goundar, counsel for respondent

Memoranda received: 28 April 2014 from applicant
 8 May 2014 from respondent

Determination: 23 May 2014

COSTS DETERMINATION OF THE AUTHORITY

[1] In a determination dated 7 April 2014 I ordered Bob Lal to pay wages and holiday pay to Lorraini Disoibau, together with compensation for Ms Disoibau's personal grievance on the ground of sexual harassment. I found further that Ms Disoibau was dismissed unjustifiably but her level of contribution was such that no remedy was awarded in respect of that grievance.

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

[3] Ms Moncur sought a contribution to costs in the sum of \$6,500 plus reimbursement of the Authority's filing fee, based on what was said to be a daily tariff based approach. I understood her to refer to the notional daily rate applied in the Authority.¹ Counsel for Mr Lal pointed out that Ms Disoibau was not the successful party in some of the claims. On that basis he asked that costs be permitted to lie where they fell, except that he sought an order for a contribution of 50% of the costs

¹ *PBO Ltd v da Cruz* [2005] ERNZ 808

of the forensic examination of digital photographs taken of the bruising on his son's neck.

[4] The investigation meeting was adjourned part heard while I sought further information from both parties. I regard the meeting and the resumption as occupying one full day in total, so that the starting point for a consideration of costs is \$3,500.

[5] Ms Disoibau was the successful party overall, and is entitled to a contribution to her costs. I do not accept the outcome was so evenly balanced that costs should lie where they fall, and I make no award in respect of the examination of the digital photographs. Instead I apply a reduction to the notional daily rate to recognise that Ms Disoibau was not fully successful. In one of her most significant claims - the personal grievance on the ground of unjustified dismissal - her degree of success was limited because of the extreme nature of her own contribution to the circumstances.

[6] For these reasons, Mr Lal is ordered to contribute to Ms Disoibau's costs in the sum of \$2,500.

R A Monaghan

Member of the Employment Relations Authority