

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 202A/08
5104992

BETWEEN ALISON EDMONDS
Applicant

AND ADLYN'S CLEANING SERVICES
LTD
Respondent

Member of Authority: Vicki Campbell

Submissions Received: 3 July 2008 from Applicant
No submissions from Respondent

Determination: 28 July 2008

COSTS DETERMINATION OF THE AUTHORITY

[1] In a determination dated 9 June 2008 I found that Ms Edmonds had been unjustifiably dismissed from her employment.

[2] In my determination I reserved the question of costs and invited the parties to resolve the matter between them. They have been unable to do so and I am now in receipt of memorandum from the applicant. I am satisfied the respondent has had adequate opportunity to lodge submissions on the matter of costs, but has not done so.

[3] I have considered the submissions made by the Respondent and I am satisfied that the discretion under clause 15 of Schedule 2 of the Act ought to be exercised in favour of Ms Edmonds.

[4] The following principles are appropriate where the Authority is exercising its discretion in relation to costs (*PBO Ltd (formerly Rush Security Ltd) v Da Cruz*, [2005] 1 ERNZ 808):

- There is a discretion as to whether costs should be awarded and what amount;
- The discretion is to be exercised in accordance with principle;
- The statutory jurisdiction to award costs is consistent with the equity and good conscience jurisdiction of the Authority;
- Equity and good conscience is to be considered on a case by case basis;
- Costs are not to be used as a punishment or as an expression of disapproval of an unsuccessful party's conduct although conduct which increases costs unnecessarily can be taken into account in inflating or reducing an award;

- It is open to the Authority to consider whether all or any of the parties costs were unnecessary or unreasonable;
- That costs generally follow the event;
- That without prejudice offers can be taken into account;
- That awards will be modest;
- That frequently costs are judged against a notional daily rate;
- The nature of the case can also influence costs and this has resulted in the Authority ordering that costs lie where they fall in certain circumstances.

[5] Ms Edmonds has incurred costs of \$3,150.00 including disbursements for a hearing which lasted one day. The Applicant seeks full costs.

[6] The matter was not complex and I find the costs incurred by the Applicant are very reasonable given the preparation required and the length of the hearing. Adlyn's Cleaning Services Limited is required to pay to Ms Edmonds the sum of \$1,000.00.

[7] An order is made accordingly.

Vicki Campbell
Member of Employment Relations Authority