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Fry v Panel Holdings Limited [2011] NZERA 75; [2011] NZERA Auckland 55 (11 February 2011)

Last Updated: 6 May 2011

IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND

[2011] NZERA Auckland 55 5313071

BETWEEN JOHN FRY

Applicant

AND PANEL HOLDINGS LIMITED

Respondent

Member of Authority: Vicki Campbell

Submissions received: 14 January 2011

Determination: 11 February 2011

DETERMINATION OF THE AUTHORITY ON COSTS

A Mr Fry is entitled to an award for costs.

B

Panel Holdings Limited is ordered to pay to Mr Fry the sum of \$1,000.

[1] In a determination dated 17 December 2010, the Authority held that Mr Fry was entitled to arrears of wages in the sum of \$17,250.00. I reserved the question of costs and invited the parties to resolve the matter between them. On 20 December 2010 the Applicant wrote to Panel Holdings Limited demanding payment of the arrears of wages and offered to settle the matter of costs. The Respondent did not respond to this correspondence.

[2] I have read carefully the submissions from the Applicant with respect to the issue of costs. The principles appropriate to the exercise of the Authority's discretion in relation to costs are set out in *PBO Ltd (formerly Rush Security Ltd) v Da Cruz*^[1]. Costs will generally follow the event and awards will be modest. However, in

exercising its discretion to award costs the Authority is required to first consider whether the costs incurred by Mr Fry were reasonable in all the circumstances.

[3] Mr Fry's costs totalled \$2,500 which in the view of the Authority is reasonable. Mr Fry seeks a contribution of \$1,000.

[4] The Respondent has been unresponsive throughout the Authority's processes. It failed to lodge a statement in reply and did not attend the investigation meeting. The hearing was completed in less than half a day. Having regard to the nature of the investigation, and in the principled exercise of my discretion **Panel Holdings Limited is to pay to Mr Fry the amount of \$1,000 in costs.**

[5] The Applicant is to personally serve a copy of this determination on the Respondent.

Vicki Campbell
Member of Employment Relations Authority

[\[1\] \[2005\] NZEmpC 144; \[2005\] 1 ERNZ 808.](#)

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