



of the allegation, the family relationship, the extravagant claim for \$45,000.00 compensation and the paucity of supporting evidence combine to justify the claim for \$6,000.00.

[3] Mr Glen's representative points out that some of the legal costs are not relevant, as accepted above. He refers me to the finding in the original determination that Mr & Mrs Loader breached the law regarding written employment agreements. He reminds me that the meeting took about two hours to deal with three witnesses. I should note that there was also a later exchange of written submissions because some potentially relevant diary entries made by the respondents were not provided until after the investigation meeting. Finally I am told that Mr Glen is not a wealthy man and is working in a struggling business; however there is no evidential support for this submission. I am urged to order no more than \$750.00 in costs.

[4] Relevant principles are enunciated in *PBO Ltd (Formerly Rush Security Ltd) v Da Cruz* [2005] ERNZ 808. Those principles include: the discretion to award costs is exercised in accordance with principle, not arbitrarily; equity and good conscience is to be considered on a case by case basis; costs are not to be used as a punishment or expression of disapproval of the unsuccessful party's conduct; awards will be modest; frequently costs are judged against a notional daily rate; and the nature of a case can influence costs.

[5] A family relationship led Mr & Mrs Loader to offer accommodation to Mr Glen who did some unpaid work for them in exchange. Against that setting Mr Glen then started doing some paid function work on a casual basis but no written employment agreement was proffered. Later, Mr Glen was asked to leave the accommodation. No further casual work was offered to him as there was none available. Mr Glen alleged a sexual harassment grievance, a dismissal grievance and a breach of the Act in relation to the lack of a written employment agreement. Mr Glen was right about the breach of the Employment Relations Act (but no penalty was imposed) and the dismissal grievance claim was understandable but not established given his casual status. However, the baseless sexual harassment claim and the level of compensation sought show a vindictive approach to this case by Mr Glen. That no doubt caused Mr & Mrs Loader to incur greater legal costs than would have been the case otherwise. For that reason there is some merit in counsel's

submission that an award larger than usual should be made.

[6] Normally I would have considered an award of around \$1,000.00 for a routine personal grievance of this duration but will make an award of \$1,500.00 for the reason just mentioned.

### **Summary**

[7] Mr Glen is to pay Mr & Mrs Loader costs in the sum of \$1,500.00.

Philip Cheyne  
Member of the Employment Relations Authority