

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2012] NZERA Auckland 20  
5312353

BETWEEN

DAVID HALLIE  
Applicant

AND

RICHMOND NEW ZEALAND  
INCORPORATED  
Respondent

Member of Authority: Alastair Dumbleton

Submissions Received 21 and 26 October 2011

Determination: 17 January 2012

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**COSTS DETERMINATION OF THE AUTHORITY**

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[1] Following an investigation by the Authority of the claim by the applicant Mr David Hallie that he was constructively dismissed, a determination was issued on 23 September 2011. In it the Authority (member Yvonne Oldfield) found that Mr Hallie had not established the basis of any type of grievance, whether disadvantage or dismissal, and that overall the respondent Richmond New Zealand Incorporated had acted as a fair and reasonable employer.

[2] Application has now been made by Richmond for costs, in accordance with the directions given by the Authority. Mr Hallie has responded.

[3] Richmond advises that following the unsuccessful mediation its legal costs were \$6,500 and seeks an award of that amount for the one day investigation meeting. In submissions for the employer, the leading case on costs in the Authority *PBO Ltd v. Da Cruz* [2005] 1 ERNZ 808 and the principles contained in the judgment are referred to. Particular reference is made to the observation by the Court that the Authority's tariff based approach to costs is not to be applied in a rigid manner without regard to

the circumstances of the case. If a tariff is to be applied it is submitted that the starting point should be \$3,000 per day of investigation meeting.

[4] In responding to the application Mr Hallie points to his currently limited financial means and the hardship payment of an award will cause him. He submits that costs should lie where they fall.

[5] I am satisfied that Richmond ought to be awarded a reasonable contribution to its actual costs, but I do not consider there is anything exceptional about this case that would justify an award of full costs.

[6] I accept that Mr Hallie is in a difficult financial situation, not having worked since he left Richmond over a year ago, and some allowance should be made for that.

[7] Using the \$3,000 figure referred to by Richmond in its submissions, and taking some account of Mr Hallie's situation, I award costs of \$2,250 which are to be paid by Mr Hallie to Richmond New Zealand Incorporated.

[8] This order is made by the Authority in the exercise of its discretion, pursuant to clause 15 of Schedule 2 of the Employment Relations Act 2000.

A Dumbleton

**Member of the Employment Relations Authority**

(Pursuant to clause 16 of Schedule 2 of the Employment Relations Act 2000)