

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**[2013] NZERA Auckland 367
5405195**

BETWEEN VED HARDIKAR
Applicant

AND KLEIN LIMITED
Respondent

Member of Authority: Eleanor Robinson
Representatives: Emily Franco, Advocate for Applicant
Rachael Rush, Advocate for Respondent
Submissions received: None from Applicant
29 July 2013 from Respondent
Determination: 16 August 2013

COSTS DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

1. In a determination dated 1 July 2013 ([2013] NZERA Auckland 272, the Authority found that Mr Hardikar had not been unjustifiably disadvantaged or unjustifiably dismissed by the Respondent, Klein Limited (Klein). The Authority also determined that Mr Hardikar had not been owed any monies in respect of days in lieu by Klein.
2. In that determination costs were reserved in the hope that the parties would be able to settle this issue between themselves. Unfortunately they have been unable to do so, and Klein has filed submissions in respect of costs.
3. This matter involved slightly in excess of half a day of an Investigation Meeting, with written submissions being submitted subsequent to that. Whilst Klein had not been legally represented at the Investigation Meeting, Ms Rush has submitted supporting evidence quantifying legal costs incurred in the preparation of this matter in the sum of \$10,855.68. Ms Rush for Klein is seeking a contribution towards costs in the sum of \$3,000.00.

4. The principles applicable to awards of costs in the Authority are well established. It is a principle set out in *PBO Limited (formerly Rush Security Ltd) v Da Cruz*¹ (“*Da Cruz*”) that costs are modest. A tariff based approach is that usually adopted by the Authority, which has the discretion to raise or lower the tariff, depending on the circumstances. The Investigation Meeting lasted one day. For an Investigation Meeting slightly in excess of half a day this would normally equate at the notional daily rate to an award of \$2,250.00.

5. Having regard to the discretionary exercise of awarding costs, I consider that a costs award at the notional daily rate is appropriate. Accordingly Mr Hardikar is ordered to pay Klein \$2,250.00 costs pursuant to clause 15 of Schedule 2 of the Employment Relations Act 2000.

Eleanor Robinson
Member of the Employment Relations Authority

¹ [2005] 1 ERNZ 808