

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

**[2012] NZERA Auckland 75  
5340148**

BETWEEN                      NEVILLE HARTUNG  
   Applicant  
  
AND                                McKAY ELECTRICAL LTD  
   Respondent

Member of Authority:        Eleanor Robinson  
  
Representatives:              Eska Hartdegan, Counsel for Applicant  
   David Grindle, Counsel for Respondent  
  
Submissions received:        No submissions from Applicant  
   14 February 2012 from Respondent  
  
Determination:                29 February 2012

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**COSTS DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

1. In a determination dated 10 January 2012 ([2012] NZERA Auckland 6), the Authority found that the Applicant, Mr Neville Hartung, had not been unjustifiably dismissed or unjustifiably disadvantaged by the Respondent, McKay Electrical Ltd (“McKay”).
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 McKay has filed submissions in respect of costs.
3. The matter involved 1 day of meeting time, with written submissions being submitted subsequent to the meeting.
4. Mr Grindle for McKay is seeking a contributory award of \$2,000.00. In support of the level of the claim by McKay, Mr Grindle submitted as noteworthy factors for the consideration of the Authority that Mr Hartung had raised a significant amount of different issues in the statement of problem which had all to be addressed, and that McKay had incurred additional costs by being required to bring a witness from Auckland to Whangarei.

## **Determination**

5. The matter involved 1 day of meeting time. 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*<sup>1</sup> that costs are modest. Costs are also reasonable as observed by the Court of Appeal in *Victoria University of Wellington v Alton-Lee*<sup>2</sup> at para [48] “As to quantification, the principle is one of reasonable contribution to costs actually and reasonably incurred.
6. 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. For a 1 day Investigation Meeting this would normally equate to an award of \$3,000.00.
7. McKay is seeking a contribution to its costs of \$2,000.00. In the circumstances I consider the level sought to be reasonable.
8. Accordingly, Mr Hartung is ordered to pay McKay \$2,000.00 costs, pursuant to clause 15 of Schedule 2 of the Employment Relations Act 2000.

**Eleanor Robinson**  
**Member of the Employment Relations Authority**

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<sup>1</sup> [2005] 1 ERNZ 808

<sup>2</sup> [2001] ERNZ 305