

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2013] NZERA Auckland 284
5378592

BETWEEN HORTON MEDIA LIMITED
 Applicant

AND NORAH LAURENCE TITHER
 Respondent

Member of Authority: R A Monaghan

Representatives: S Langton, counsel for applicant
 NL Tither in person

Memoranda received: 6 June 2013 from applicant
 28 June 2013 from respondent

Determination: 5 July 2013

COSTS DETERMINATION OF THE AUTHORITY

[1] In a determination dated 9 May 2013 I ordered Mrs Tither to make substantial payments to Horton Media Limited (HML) in respect of damages for breaches of her employment agreement. I found against her on counterclaims which included personal grievances and a claim for payment in lieu of notice, and declined both parties' claims for penalties.

[2] Costs were reserved, and the parties have filed memoranda on the matter.

[3] Counsel for HML sought an award of costs in the sum of \$5,250. He relied on the principles in *PBO Limited (formerly Rush Security Limited) v da Cruz*¹ and the notional daily rate in the Authority of \$3,500. He calculated the amount sought with reference to that rate, and the investigation time of 1.5 days.

¹ [2005] 1 ERNZ 808

[4] The response on behalf of Mrs Tither addressed a discussion in the Authority's investigation meeting concerning unauthorised payments taken from Waiuku Publishing Limited (WPL). The matter had been the subject of pre-meeting discussions between the parties and counsel, and the Authority had been under the impression it was not being asked to address it.

[5] There were also a number of unresolved matters, and addressing them took up the substantial majority of the meeting time. Accordingly it is not necessary for the exchanges in respect of WPL to sound in costs, but appropriate to consider costs in respect of the remaining matters.

[6] HML was the successful party overall in respect of the unresolved matters, and is entitled to a contribution to its costs. I have no information about Mrs Tither's assets, and am aware only that the Employment Court has made freezing orders in respect of them.² As a result, although the ability to meet an order for payment is relevant in setting costs, I am not in a position to take that factor into account here.

[7] Mrs Tither is therefore ordered to contribute to HML's costs in the sum of \$5,250.

R A Monaghan

Member of the Employment Relations Authority

² *Horton Media Limited v Tither* [2012] NZEmpC 116 and 142