

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON OFFICE**

BETWEEN Steven Humphry (Applicant)
AND Murphy's Kitchen and Home Renovators Limited (Respondent)
REPRESENTATIVES Trent Petherick for the Applicant
David McLeod for the Respondent
MEMBER OF AUTHORITY P R Stapp
SUBMISSIONS Received by 1 February 2007
DATE OF DETERMINATION 14 February 2007

COSTS DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] The Applicant has applied for costs. He is on legal aid. The legal aid remuneration was fixed at \$2,820. This includes attendances, document drafting, telephone attendances, appearances, correspondence and other activities (preparation). He was successful in bringing a personal grievance for monetary remedies. He obtained a penalty against the Respondent that had to be paid to the Crown. There was substance to the matters raised in the statement of problem. There was nothing unusual about the time spend in the scheduled one day investigation meeting that the parties would have planned for. It is fair and reasonable that costs follow the event. In the usual setting and for a matter of this sort I accept that reasonable costs for an investigation would be \$2,820 from the legal aid invoice. Because these are actual costs I have decided it is appropriate to make an award as a contribution to this sum. It is appropriate in the circumstances to fix the contribution as 75% of the sum. Also, the disbursements of \$86.40 from the invoice are entirely reasonable.

[2] The Respondent submitted that costs should lie where they fall. It submitted that there are issues associated with the ability to pay any sum awarded to the Applicant. It supported its submission with a statement from Tax & Accounts Limited.

[3] It is unrealistic to accept that costs should lie where they fall given the Applicant was successful in proceedings that had some substance and that he has incurred costs. I am not convinced that the statement from Tax & Accounts Limited means that the Respondent has an inability to pay, or to make arrangements to pay, because it is based on speculation.

[4] Murphy's Kitchen and Home Renovators Limited (Respondent) is to pay Steven Humphrey \$2,115 contribution towards costs and \$86.40 disbursements.

P R Stapp
Member of the Authority