

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

[2013] NZERA Wellington 57
File Number 5362839

BETWEEN JAMES HUNT
 Applicant

AND GEMCO ELECTRICAL
 SERVICES LIMITED
 Respondent

Member of Authority: P R Stapp

Representatives: John McDowell for Applicant
 Dave Robb for Respondent

Investigation Meeting: On the papers

Submissions received by: 10 May 2013

Determination: 15 May 2013

COSTS DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] Costs were reserved in a determination [2013] NZERA Wellington 26. Costs have not been settled by the parties since the determination was made. The applicant has asked for a contribution of \$3,500 plus disbursements of \$146.80. The respondent has requested that costs lie where they fall.

Issues

[2] Should both parties meet their own costs, in other words costs are to lie where they fall, or how much should the respondent have to pay the applicant?

The facts

[3] The applicant Mr Hunt was successful. He has incurred costs for representation and attendances in the Authority. The Authority's meeting while set down for a day involved less than the allocated time during the day. There has been nothing exceptional about the matter or that either party put the other to unnecessary expense. Mr Hunt was entitled to be heard because the respondent tried to defend its action fully on all the issues relating to substance and procedure. It did not make any concessions to avoid more time and expense. However, the respondent was partially successful in as much as there was a finding of contribution, and Mr Hunt could not fully establish his monetary claims. The parties' admirably helped the Authority and they used mediation in an attempt to save costs. However, as Mr Hunt was successful and has incurred costs it follows that the respondent should contribute towards the costs. This is not a matter of penalising the respondent, but awarding a contribution of costs to the successful party. This is recognised as a matter of principle. I accept that the respondent did much to reduce costs by fully co-operating and attempting to save costs. This should be reflected in the notional daily tariff but not to the extent of both parties meeting their own costs only. Therefore I reduce the notional daily tariff by 1/3rd. Disbursements were not itemised and in any event both parties were involved in the preparation for the Authority's investigation meeting. Mr Hunt is entitled to the filing fee.

Determination

[4] Costs follow the event and the notional daily tariff is reduced by 1/3rd. Mr Hunt is entitled to be reimbursed the filing fee.

Orders of the Authority

[5] Gemco Electrical Services Limited is required to pay Mr James Hunt \$2,333 plus the fee of \$71. 56.

[6] Both parties are to meet their own disbursements.

P R Stapp

Member of the Employment Relations Authority