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Hunter v Canpac International Limited [2011] NZERA 12; [2011] NZERA Auckland 10 (12 January 2011)

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Hunter v Canpac International Limited [2011] NZERA 12 (12 January 2011); [2011] NZERA Auckland 10

Last Updated: 4 February 2011

IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND

[2011] NZERA Auckland 10 5296324

BETWEEN JENNY HUNTER

Applicant

AND CANPAC INTERNATIONAL

LIMITED Respondent

Member of Authority: Representatives:

Submissions received:

K J Anderson

J Peebles, Advocate for Applicant S Beard, Advocate for Respondent

11 October 2010 from Applicant 20 October 2010 from Respondent

Determination:

12 January 2011

COSTS DETERMINATION OF THE AUTHORITY

[1] In a determination dated 6th September 2010 (AA 398/10), the Authority found in favour of Ms Hunter in that she was constructively dismissed. The parties were invited to resolve the matter of costs but have been unable to do so. As the successful party, Ms Hunter has filed submissions on costs. Submissions for Canpac International Limited ("Canpac") have been filed in response.

[2] Mr Peebles requests that the Authority award the total costs incurred by Ms Hunter; being \$4,000.00 (plus GST), for: "... *the costs of pursuing this grievance*" but there is no evidence at all of the expenses that Ms Hunter has purportedly incurred. Also sought is the sum of \$70.00, being the application fee paid to the Authority by Ms Hunter.

[3] The submissions for Canpac allude to the failure on the part of Mr Peebles to provide any evidence of the expenses incurred by Ms Hunter, the fact that Mr Peebles is an advocate rather than a lawyer, and the limited involvement of Mr Peebles pertaining to the proceedings. Canpac submits that a reasonable award of costs in the circumstances would be \$500.00.

[4] This was not a complex matter and both parties prepared on an economical and effective basis, consistent with how the Authority is prescribed to act under [s 157\(1\)](#) of the [Employment Relations Act 2000](#).

[5] The accepted practice of the Authority is to apply the principles set out in *PBO Limited (formerly Rush Security Limited) v Da Cruz* [\[2005\] NZEmpC 144](#); [\[2005\] ERNZ 808](#). In particular, a tariff based approach is applied with the current rate of \$3,000 for each day of an investigation meeting commonly being awarded. But the tariff can be raised or reduced depending on the particular circumstances of a case. In this case, given that it was not complex, the investigation meeting took less than half a day, Mr Peeble's preparation and involvement was very minimal and there is no evidence of the expenses incurred by Ms Hunter, I conclude a reasonable award of costs (including the application fee) is \$750.00

Determination

[6] Taking the above circumstances into account, Canpac International Limited is ordered to pay to Ms Hunter costs of \$750.00.

K J Anderson

Member of the Employment Relations Authority

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