

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

[2013] NZERA Christchurch 158
5377174

BETWEEN MONIQUE HYDE
Applicant

A N D WINTON HOTEL (2002)
LIMITED
Respondent

Member of Authority: M B Loftus

Representatives: Mary-Jane Thomas, Counsel for Applicant
Alyn Higgins, Counsel for Respondent

Submissions Received: 19 July 2013 from Applicant
6 August 2013 from Respondent

Date of Determination: 7 August 2013

COSTS DETERMINATION OF THE AUTHORITY

[1] On 2 May 2013 I issued a determination concluding Ms Hyde had a personal grievance in that she was unjustifiably dismissed. Costs were reserved and Ms Hyde, as the successful party, now seeks recompense for those she incurred.

[2] Normally the Authority will use a daily tariff approach when addressing a costs claim (refer *PBO Ltd (formerly Rush Security Ltd) v Da Cruz* [2005] ERNZ 808). The normal starting point is \$3,500 per day and from there adjustment may be made depending on the circumstances.

[3] The hearing took just over half a day which would, applying the above formula, mean a contribution in the order of \$1,750.

[4] Ms Hyde, however, seeks a greater amount. She was legally aided and asks I award \$3,346.23 which represents full reimbursement of the amount paid by legal aid. In the event I do not accept the claim for full recompense, an alternate and reduced sum of \$1,657.31 is suggested. That would see reimbursement of the amount paid for

the investigation meeting but does not, given the attached documentation, appear to include recompense for some of the ancillary work. There was no supporting argument.

[5] The Respondent accepts costs normally follow the event. It refers to the principles outlined in *PBO Ltd v Da Cruz* before suggesting I ignore costs incurred prior to filing the Statement of Problem in the Authority which occurred some two months after the unsuccessful mediation.

[6] Ms Hyde's initial claim is untenable. First she includes the cost of attending mediation and it has been long accepted such costs are not recoverable. Second, a costs award is a contribution. Full indemnification is only considered in exceptional circumstances where the type of behaviours discussed in *Bradbury v Westpac Banking Corporation* [2009] 3 NZLR 400 are present. There is no suggestion that is the case here.

[7] That leaves the alternate claim of \$1,657.31. Given its close proximity to the normal tariff, the content of legal aid documentation appended to the application and the fact it sits with the approach promoted by the respondent, I conclude it to be a reasonable contribution.

[8] Therefore, and for the foregoing reasons, I order Winton Hotel [2002] to pay Ms Monique Hyde the sum of \$1, 657.31 (one thousand, six hundred and fifty seven dollars and thirty one cents) as a contribution toward the costs Ms Hyde incurred in pursuing her claim.

M B Loftus
Member of the Employment Relations Authority