



Employment Court of New Zealand

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Jerard v Wildbore [2013] NZEmpC 181 (27 September 2013)

Last Updated: 17 October 2013

IN THE EMPLOYMENT COURT CHRISTCHURCH REGISTRY

[\[2013\] NZEmpC 181](#)

CRC 50/12

IN THE MATTER OF a challenge to a determination of the

Employment Relations Authority

BETWEEN RACHEL JERARD Plaintiff

AND MICHAEL WILDBORE Defendant

Hearing: on the papers - memorandum received 10 August 2013

Appearances: James Pullar, counsel for defendant

Judgment: 27 September 2013

COSTS JUDGMENT OF JUDGE A A COUCH

[1] In my decision dated 31 July 2013^[1], I struck out the plaintiff's claim as vexatious and invited counsel for the defendant to file a memorandum as to costs. Mr Pullar has now done so.

[2] Attached to Mr Pullar's submission were two documents. One was a copy of the invoice sent to the defendant and which Mr Pullar says has been paid. That was for \$1,883.70 inclusive of GST. The second document was a "work-in-progress report" detailing the time devoted to the matter by Mr Pullar and which formed the basis for the invoice. It shows a total of 9.1 hours' work.

[3] In general, the time spent by Mr Pullar on specific tasks was reasonable, as was the hourly rate of \$180 for his work. I am not satisfied, however, that all of the work done related to the proceeding before the Court. In particular, there were several attendances related to proposals for settlement made by both parties. Some

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time was also spent researching relatively straightforward matters. Deducting the

3.1 hours involved in those attendances, I conclude that costs for 6 hours' work were

actually and reasonably incurred. That equates to \$1,242 including GST.

[4] The time records do not include the work involved in drafting the memorandum as to costs. I allow an additional hour for that. This is a further \$207. On that basis, the total amount to which the plaintiff should contribute is \$1,449.

[5] The accepted starting point for assessing contribution is two thirds of the costs actually and reasonably incurred. Reflecting my conclusion that the plaintiff's challenge was vexatious, however, it is just that the proportion be increased significantly.

[6] The plaintiff is ordered to pay the defendant \$1,200 for costs.

Signed at 3.15 pm on 27 September 2013.

A A Couch
Judge

[\[1\]](#) [\[2013\] NZEmpC 144.](#)

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