

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

WA 96A/10
5085018

BETWEEN MUSTAFA KANAR
 Applicant

AND EROL GURLEYEN AND
 SULTAN'S HAREM LIMITED
 Respondents

Member of Authority: P R Stapp

Submissions received: 25 June 2010 from the Applicant. No reply from the
 Respondents by 12 August 2010

Determination: 12 August 2010

COSTS DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] The applicant was successful in his claims against both respondents and costs were reserved by the Authority in a determination issued on 14 May 2010. Despite an attempt by the applicant's representative to try and settle costs with the respondent by correspondence, the respondents did not have the courtesy to reply.

[2] The applicant has applied for his costs. He has asked for \$6,145 plus disbursements of \$2,625.55. Mr Kanar was legally aided until 9 April 2010. The Authority's investigation meeting occurred on 7 and 8 April 2010 and Mr Kanar attended by video conference to give his evidence.

[3] Costs follow the event because Mr Kanar was successful and has incurred costs. The application for the sum requested is entirely proper because it is well within the commercial rate that would have otherwise been charged but for legal aid and accords with the tariff approach applied to costs by the Authority for the time involved in preparation and the investigation meetings.

[4] Therefore Erol Gurleyen and Sultan's Harem Limited are to jointly and severally pay to Mustafa Kanar \$6,145 contribution to reasonable costs.

[5] In addition, I accept the claim for disbursements considering it covers the filing fee, photocopying and office expenses, service agent fee, registered post service and the Employment Relations Authority hearing fee. I accept the summary of the disbursements is accurate without any receipts because it seems reasonable. The filing fee is usually reimbursed when an applicant is successful because it is a cost the applicant has been put to. In this case Mr Kanar reasonably needed to apply to the Authority to get his employment relationship problem considered. The case involved a large number of documents and attendances by Counsel before the investigation meeting got under way. The service agent fee and registered post are costs legitimately incurred when the applicant was requested by the Authority to help in serving documents and notices on the respondents where there were difficulties with service. The hearing fee was associated with an extra day needed in the Authority to complete the investigation meeting. I have not included the video conference expenses because those were incurred at the applicant's convenience. That expense should not be imposed on the respondents.

[6] Erol Gurleyen and Sultan's Harem Limited are to jointly and severally pay to Mustafa Kanar \$623.05 disbursements.

Summary of the Authority's determination

[7] Erol Gurleyen and Sultan's Harem Limited are to jointly and severally pay Mustafa Kanar:

- (a) \$6,145 costs; and
- (b) \$623.05 disbursements.