

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON OFFICE**

BETWEEN Nathan Ross Kingsford (Applicant)
AND Bodyworks Panel & Paint Limited (Respondent)
REPRESENTATIVES Gerard Dewar for Applicant
Phil Mitchell for Respondent
MEMBER OF AUTHORITY G J Wood
INVESTIGATION By way of Submissions Received by 7 March 2007
MEETING
DATE OF 9 March 2007
DETERMINATION

COSTS DETERMINATION OF THE AUTHORITY

1. In my substantive determination I found that Mr Kingsford had been unjustifiably dismissed, but that he was not regularly abused at his work place. I reduced the remedies awarded to him by 2/3rds to take account of his contributory behaviour, particularly in abusing his own boss, Mr Smith.
2. Both parties have sought costs against the other. Although the Authority has a wide discretion in ordering costs, the normal principle is that costs are awarded to the successful party. Mr Kingsford was the successful party in terms of his claim for unjustified dismissal. While a lot of evidence was given over Mr Kingsford's unsuccessful claim in relation to an alleged unsafe workplace, that evidence was useful in assessing the equally serious claim of unjustified dismissal, which was made out.
3. I accept that in the ordinary course of events the party who is successful in a claim involving the same degree of investigation as this one could expect an award of \$3,000. In Mr Kingsford's case, however, he was unsuccessful in one major claim and had his awards reduced by 2/3rds on the other claim.

4. I therefore consider that Mr Kingsford should receive a contribution to his costs, but that a similar deduction of 2/3rds be made, to take into account contribution and the unsuccessful claims he brought. I therefore order the respondent, Bodyworks Panel & Paint Limited, to pay to the applicant, Nathan Ross Kingford, the sum of \$1,000 in costs.

G J Wood
Member of Employment Relations Authority