



New Zealand Employment Relations Authority Decisions

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Legge v Nordic Power Desiccants Ltd (Christchurch) [2007] NZERA 248 (1 March 2007)

Determination Number: CA 21/07 File Number: 5054314

Under the [Employment Relations Act 2000](#)

BEFORE THE EMPLOYMENT RELATIONS AUTHORITY OFFICE

BETWEEN

Adam Legge (Applicant)

AND

Nordic Power Desiccants Ltd (Respondent)

REPRESENTATIVES

Phil Butler and Joshua Lucas, advocates for applicant Scott Bright, for respondent together with Matt Maling, counsel for respondent

MEMBER OF AUTHORITY

James Crichton

SUBMISSIONS RECEIVED

12 January 2007 22 January 2007

DATE OF DETERMINATION

1 March 2007

COSTS DETERMINATION OF THE AUTHORITY

The application for costs

[1] By determination dated 8 December 2006, the Authority resolved the employment relationship problem between these parties by determining that Mr Legge had made out his claim for an unjustified dismissal.

[2] Costs were reserved.

The claim for costs

[3] Through his representative, Mr Legge seeks costs of \$2,500 plus disbursements of \$75 as the successful party. The total fees charged to Mr Legge for his successful claim against the respondent is \$3,552 excluding GST.

[4] It follows that the claim made is at the upper end of the band for an average costs award for a one day investigation meeting as determined by the Authority in calendar 2005 or at the bottom end of the band for an average determination for costs in the Authority in the first half of calendar 2006.

[5] Counsel for the respondent, Nordic Power Dessicants (New Zealand) Limited (Nordic) argue that costs of \$1,500 or less should be awarded because of the limited preparation time required by reason of the urgent nature of the proceedings and the limited hearing time of three to four hours.

The legal principles

[6] The full Court in *PBO Ltd v. Da Cruz* AC2A/05 sets out the relevant principles and inter alia confirms that the approach that the Authority has traditionally taken in relation to costs awards and the principles the Authority has considered are *appropriate ... and consistent with (the Authority's) functions and powers*.

[7] In addition, the Court approved in principle the Authority's *tariff based approach* as a basis for reaching decisions in a costs setting provided that the *tariff based approach* was not applied rigidly or without proper consideration of the factual matrix of a particular case.

Determination

[8] I accept the submission of counsel for Nordic that this was a matter that was dealt with expeditiously and that, by reason of the speed with which the matter was brought on for an investigation, the costs were indeed kept to a minimum.

[9] I also consider that the total costs charged to Mr Legge by his representative are a fair and reasonable charge for the work that would have been necessary to prepare this matter for an investigation meeting.

[10] Nonetheless, this was a matter that was dealt with very quickly and in all the circumstances a contribution of \$2,000 is considered to be appropriate. This contribution reflects the brisk nature of the proceedings, the short duration of the investigation meeting but also makes a contribution to Mr Legge's reasonably incurred actual costs.

[11] Nordic is directed to pay to Mr Legge the sum of \$2,000 as a contribution to his costs in the Authority.

James Crichton

Member of Employment Relations Authority

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