



New Zealand Employment Relations Authority Decisions

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Maddern v Worldxchange Communications Limited AA212A/10 (Auckland) [2010] NZERA 770 (15 October 2010)

Last Updated: 18 November 2010

IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND

AA 212A/10 5159692

BETWEEN BRENDAN MADDERN

Applicants

AND WORLDXCHANGE

COMMUNICATIONS LIMITED Respondent

Member of Authority: Representatives:

Submissions received:

Rachel Larmer

Applicant in person

A J Steele, Counsel for Respondent

31 May 2010 from Applicant

20 May 2010 from Respondent

Determination:

15 October 2010

COSTS DETERMINATION OF THE AUTHORITY

[1] The Authority (Member Robinson) issued its determination on 7 May 2010. The applicant's personal grievance claims for unjustified dismissal and unjustified disadvantage were not upheld.

[2] The parties were invited to resolve costs between them, and failing that a timetable was set for the respondent to file its costs memorandum, and for the applicant to file his memorandum in response.

[3] This matter involved a two day investigation meeting. The respondent has claimed \$6,000 costs, based on a \$3,000 daily tariff being applied to two days. I accept that the respondent actually incurred costs in excess of what it is claiming.

[4] Pursuant to clause 15, Schedule 2 of the Employment Relation Act 2000, the Authority has the power to award costs to the respondent in any amount which it thinks reasonable. The principles relating to costs in the Authority are well settled (see *PBO Ltd (formerly Rush Security Ltd) v Da Cruz* [\[2005\] NZEmpC 144](#); [\[2005\] ERNZ 808](#)).

[5] I adopt a notional daily tariff of \$3,000, which is consistent with the Employment Court's comment in *Chief Executive of the Department of Corrections v Tawhiwhirangi* [\[2008\] ERNZ 73](#) that is an appropriate starting point, rather than an upper figure. After reviewing this matter, I do not consider there are any particular factors in this case which would warrant a departure from that notional tariff.

[6] Applying a daily tariff of \$3,000 to the two days of investigation time, results in an order that the applicant contribute \$6,000 towards the respondent's actual costs in respect of the substantive matter.

[7] Despite the parties being invited to attempt to resolve costs themselves, the applicant declined to negotiate on costs, believing there was no positive benefit to him in doing so. I consider that the respondent is entitled to a contribution towards the costs it has had to incur as a result of being required to apply for a costs order, and I fix that amount at \$300.

[8] The applicant is ordered to pay the respondent a total of \$6,300 towards its legal costs.

Rachel Larmer

Member of the Employment Relations Authority

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