

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

[2018] NZERA Christchurch 147
5638936

BETWEEN

JORDAN MASON
Applicant

AND

CARDINAL LOGISTICS
LIMITED
Respondent

Member of Authority: Christine Hickey

Representatives: Jordan Mason in person
Justine Foden, Advocate for the respondent

Costs submissions received: From Ms Foden on 10 July 2018
No submissions from Mr Mason

Determination: 10 October 2018

COSTS DETERMINATION OF THE AUTHORITY

[1] On 13 June 2018, I issued a determination dismissing Mr Mason's claim of unjustified dismissal. I reserved my determination on costs noting that the unsuccessful party could expect to contribute towards the successful party's costs.

[2] On 10 July 2018, Cardinal Logistics Ltd applied for Mr Mason to pay costs of \$3,825 to Cardinal in reimbursement for the costs it incurred using her services to defend Mr Mason's claim.

[3] Mr Mason sent an email to the Authority officer stating that Ms Foden's email:

... outlin[ed] accrued costs for an apparent successful case from Cardinal Logistics.

This is inaccurate as I'm still in the process of filing a SC179 form.

... My costs from Cardinal Logistics will be \$8,000 as stated at mediation and at the 5 hour interview.

[4] The Authority officer replied asking Mr Mason what an SC179 form was and asking for his response to Ms Foden's application for him to pay Cardinal Logistics' costs. The Authority officer let Mr Mason know he was to make his views known by way of memorandum in reply, letter or email but that was expected by 24 July 2018.

[5] On 25 July 2018, the Authority officer extended the period for Mr Mason to make his response until 1 August 2018.

[6] Mr Mason has made no further response to the costs application.

[7] The Authority's general power to award costs is set out in clause 15(1) of Schedule 2 to the ERA and is discretionary.

[8] The Employment Court judgments in *PBO Ltd v Da Cruz*¹ and *Fagotti v Acme & Co Ltd*² set out the broad principles the Authority should apply in determining costs in the Authority.

[9] The Authority generally awards costs on a daily tariff basis with a tariff of \$4,500 for the first day of an investigation meeting and \$3,500 for subsequent days.

[10] This case was a straightforward personal grievance case. There is no reason to depart from the usual principle that costs follow the event. The usual daily tariff for a one-day case such as this is \$4,500.

[11] Cardinal Logistics submits that Mr Mason should pay Ms Foden's fee for the investigation hearing, excluding any costs related to mediation and Ms Foden's travel costs, at \$3,645 excluding GST. It also claims that Mr Mason should pay a further

¹ [2005] ERNZ 808

² [2015] NZEmpC 135

\$180, the cost of preparing the costs submissions, making a total of \$3,825, also excluding GST.

[12] I accept that the amount sought is less than the daily tariff. However, generally the Authority does not award the cost of preparing costs submissions. I do not do so in this case. Otherwise, the amount sought is reasonable.

[13] Therefore, I consider it reasonable that Mr Mason pay Cardinal Logistics \$3,645 as a contribution towards its legal costs.

Order

[14] **Within 28 days of the date of this determination, Jordan Mason must pay Cardinal Logistics Limited \$3,645 gross towards its legal costs.**

Christine Hickey
Member of the Employment Relations Authority