

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2021] NZERA 24
3080936

BETWEEN STUART MEHRTENS
Applicant

A N D MEYDELL HOLDINGS 2018 LIMITED
Respondent

Member of Authority: David G Beck

Representatives: Peter van Zyl, advocate for the Applicant
Rachel Brazil, counsel for the Respondent

Investigation Meeting: On the papers

Submissions Received: 21 December 2020 from the Applicant
13 January 2021 from the Respondent

Date of Determination: 21 January 2021

COST DETERMINATION OF THE AUTHORITY

The Determination

[1] On 18 December 2020 the Authority issued a determination finding that:

- a. Stuart Mehrtens was unjustifiably dismissed from his employment with Meydell Holdings 2018 Limited.
- b. Meydell Holdings 2018 Limited were directed to pay Mr Mehrtens lost wages in the sum of \$4,167 (gross) and compensation of \$25,200 pursuant to section 123 (1)(c)(i) Employment Relations Act 2000.

- c. Stuart Mehrstens was to pay Meydell Holdings 2018 Limited \$729.20 to cover unpaid utility accounts.

[2] The parties were asked to explore resolving costs by agreement but failed to do so.

Submissions

[3] When asked to provide a submission on costs by the Authority Mr van Zyl submitted a copy of a letter to Ms Brazil claiming a contribution to costs of \$5,500 + GST but no further details.

[4] Ms Brazil in response indicated that her client consented to have the Authority determine costs by applying the Authority's existing 'daily tariff' approach taking heed of the fact that the investigation meeting did not take a full day.

Costs principles

[5] The Authority's discretion to award costs is well established and arises from Section 15 of Schedule 2 of the Employment Relations Act 2000. The discretion it is accepted is guided by principles set out in *PBO Limited (formerly Rush Security Ltd) v Da Cruz*¹ including: that costs are not to be used as a punishment or as a reflection on how either party conducted proceedings and that awards are to be made consistent with the equity and good conscience jurisdiction of the Authority.²

Assessment

[6] A general principle for a successful party is that costs should 'follow the event' and here Stuart Mehrstens was successful in his unjustified dismissal claim.

[7] In these circumstances, I consider a slightly reduced daily tariff (normally \$4,500 for a one day hearing) should apply as no extraordinary circumstances have been brought to my attention that would persuade me otherwise and this was a hearing that commenced at 9:30 am and finished at 2:30 pm.

¹ *PBO Limited (formerly Rush Security Ltd) v Da Cruz* [2005] 1 ERNZ 808.

² Section 160(2) Employment Relations Act 2000.

Award

[8] I order Meydell Holdings 2018 Limited to pay Stuart Mehrtens the sum of \$3,500.00 as a contribution to his legal costs incurred.

David Beck
Member of the Employment Relations Authority