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Miller v Auckland Cat Practice Limited (Auckland) [2007] NZERA 55 (27 March 2007)

IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND

AA 51 A/07 5040214

BETWEEN ROBYN MILLER

Applicant

AND AUCKLAND CAT PRACTICE LIMITED

Respondent

Member of Authority: Representatives:

Determination:

Leon Robinson

Brian Spong for Applicant Mark Robson for Respondent

27 March 2007

DETERMINATION OF THE AUTHORITY AS TO COSTS

[1] By a Determination dated 27 February 2007, the Authority resolved the employment relationship problem between these parties by formal orders in the applicant Mrs Robyn Miller's ("Mrs Miller") favour. Ms Miller now asks the Authority to order that the Auckland Cat Practice ("the Practice") pay her costs because the parties have not been able to resolve the matter informally between them.

[2] Mrs Miller seeks a contribution to her costs of \$2,945.00 together with the lodgement fee on this application of \$70.00.

[3] In reply, Mr Robson tenders a memorandum in which the salient point is a submission that Mrs Miller's case before the Authority was largely inefficient and distracting. I do not accept that submission. There can be no criticism of Mrs Miller's presentation of her case and quite the contrary, the Authority derived much assistance from it. Mr Robson submits the Practice is willing to contribute in the sum of \$1,500.00.

[4] The exercise of my discretion calls for a determination of what is a fair and reasonable contribution as between the parties. The Authority adopts a principled approach taking into account relevant matters and having no regard for irrelevant ones.

[5] The investigation meeting was concluded in less than one day. Mrs Miller succeeded in her claim and is therefore to be regarded as the successful party. I see no reason to depart from the ordinary rule that costs follow the event and accordingly there shall be an order in Ms Miller's favour that the Practice make a contribution to her costs. Costs awards in the Authority are typically modest.

[6] I make an award which does not seek to punish the Practice, but rather, attempts to compensate Mrs Miller for the expense she has incurred to obtain resolution. Accordingly, exercising my discretion on a principled basis, I conclude a contribution of \$2,070.00 is appropriate. **I order Auckland Cat Practice Limited to pay to Mrs Robyn Miller the sum of \$2,070.00 as a contribution to costs.**

Leon Robinson

