



Employment Court of New Zealand

You are here: [NZLII](#) >> [Databases](#) >> [Employment Court of New Zealand](#) >> [2008](#) >> [2008] NZEmpC 77

[Database Search](#) | [Name Search](#) | [Recent Decisions](#) | [Noteup](#) | [LawCite](#) | [Download](#) | [Help](#)

Monteith v Eagle WC 10A/08 [2008] NZEmpC 77 (11 September 2008)

Last Updated: 19 September 2008

IN THE EMPLOYMENT COURT

WELLINGTONWC 10A/08WRC 33/07

IN THE MATTER OF an application to extend time within which to challenge a determination of the Employment Relations Authority

AND

IN THE MATTER OF an application for costs

BETWEEN ESTHER JOHANNA MONTEITH
Applicant

AND ABBY LEIGH EAGLE
Respondent

Hearing: Memoranda received 14 July and 19 August 2008

Judgment: 11 September 2008

COSTS JUDGMENT OF JUDGE A A COUCH

[1] In my substantive judgment dated 17 June 2008 (WC 10/08), I concluded by suggesting that Ms Eagle was entitled to a modest contribution to the costs she incurred in responding to Mrs Monteith's application and invited the parties to file memoranda. Both Mr Snell and Mrs Monteith have now done that.

[2] In his memorandum, Mr Snell records that the costs incurred by Ms Eagle were \$1,237.50 inclusive of GST. He notes that Ms Eagle is unable to pay that sum and simply leaves the amount of any award of costs to the Court.

[3] In her memorandum, Mrs Monteith records her current personal and financial position. She is chronically unwell, has had to give up her business and is currently receiving a sickness benefit. Her outgoings exceed her income and her assets are few. Her financial difficulties have been aggravated by a relatively recent separation from her husband with the resultant loss of support and of many of the matrimonial assets. Mrs Monteith says that she does not have the money to comply with the orders made by the Authority, let alone a further order for costs.

[4] In the absence of any reason not to do so, I accept what Mrs Monteith says in her memorandum at face value. She has fallen on hard times and is impecunious.

[5] In the employment jurisdiction, the ability to pay is a factor which must be taken into account when deciding costs. In this case, it is a factor to which I give considerable weight.

[6] In all the circumstances, I conclude that only a very modest award of costs should be made.

[7] Mrs Monteith is ordered to pay Ms Eagle \$200.00 as a contribution to her costs.

AA Couch

Judge

Judgment signed at 3.30pm on 11 September 2008

NZLII: [Copyright Policy](#) | [Disclaimers](#) | [Privacy Policy](#) | [Feedback](#)

URL: <http://www.nzlii.org/nz/cases/NZEmpC/2008/77.html>