Employment Court of New Zealand

Morgan v Tranzit Coachlines Wairarapa Limited [2021] NZEmpC 3 (26 January 2021)

Last Updated: 29 January 2021

IN THE EMPLOYMENT COURT OF NEW ZEALAND WELLINGTON

I TE KŌTI TAKE MAHI O AOTEAROA TE WHANGANUI-A-TARA

[2021] NZEmpC 3
EMPC 262/2018

IN THE MATTER OF	proceedings removed from the Employment Relations Authority
AND IN THE MATTER	of an application for costs
BETWEEN	PAUL MORGAN Plaintiff
AND	TRANZIT COACHLINES WAIRARAPA LIMITED Defendant

Hearing:	On the papers
Appearances:	G Clarke, advocate for plaintiff M Gould, counsel for defendant
Judgment:	26 January 2021

COSTS JUDGMENT OF CHIEF JUDGE CHRISTINA INGLIS

[1] The parties have had a long-running series of disputes which most recently culminated in an interlocutory judgment on an application by Mr Morgan for further orders.1 I reserved costs; indicated that it may be appropriate for costs to lie where they fell; invited the parties to seek to reach agreement and said that I would receive memoranda if agreement did not prove possible. Agreement as to costs has not proved possible. This judgment resolves that issue.

1 *Morgan v Tranzit Coachlines Wairarapa Ltd* [2020] NZEmpC 169.

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[2] A contribution to Mr Morgan's costs of $18,140.10 is sought. The company submits that costs should lie where they fell.

[3] The Court has a discretion as to costs. The discretion must be exercised in the interests of justice and in accordance with established principles. The Court has adopted a Guideline Scale to assist parties and the Court, and to promote predictability, expedition and consistency. As the Guidelines make clear, principles applying to awards of costs, and the refusal to award costs, continue to apply in appropriate cases.2

[4] Costs generally follow the event. The application in this case centred on two (inter-related) issues – entitlement to annual leave and entitlement to paid public holidays. Both issues involved similar degrees of complexity and importance. Mr Morgan succeeded on the first; the company on the second. In other words, each party enjoyed a comparable measure of success on the application. In such circumstances it is "common enough", as the Court of Appeal has previously observed, for no order of costs in this jurisdiction to be made.3 I consider that to be the appropriate result in this case.

[5] No order for costs is accordingly made. Costs are to lie where they fell.

Christina Inglis Chief Judge

Judgment signed at 2.15 pm on 26 January 2021

2. “Employment Court of New Zealand Practice Directions” <www.employmentcourt.govt.nz> at No 16.

3 *Health Waikato Ltd v Elmsly* [2004] NZCA 35; [2004] 1 ERNZ 172 (CA) at [39].
