IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND

[2011] NZERA Auckland 54
5281065

BETWEEN	HUGHEY MORGAN Applicant
AND	WAIOTAHI CONTRACTORS LIMITED Respondent

Member of Authority:	Vicki Campbell
Representatives:	Jake McCleary for Applicant Kim Stretton for Respondent
Submissions Received:	9 December 2010 from Applicant No submissions from Respondent
Determination:	11 February 2011

DETERMINATION OF THE AUTHORITY ON COSTS

A   Mr Morgan is entitled to an award for costs.

B   Waiotahi Contractors Limited is ordered to pay to Mr Morgan the sum of $3,000.

[1]   In a determination dated 10 November 2010, the Authority held that Mr Morgan had been unjustifiably dismissed. Mr Morgan was awarded the sum of $4,020 for lost wages and compensation.

[2]   I have read carefully the submissions from the Applicant with respect to the issue of costs.   The principles appropriate to the exercise of the Authority's discretion in relation to costs are set out in *PBO Ltd (formerly Rush Security Ltd) v Da Cruz[1]*. Costs will generally follow the event and awards will be modest. However, in

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[1] [2005] 1 ERNZ 808.

exercising its discretion to award costs the Authority is required to first consider whether the costs incurred by Mr Morgan were reasonable in all the circumstances.

[3]   Mr Morgan's costs totalled $7,722.50. A copy of an invoice dated 16 December 2009 was provided to the Authority. That invoice is for the sum of $2,722.50 and includes time for attendance at mediation. This determination will consider only those costs expended on the Authority's processes. No invoice has been provided for the bulk of the legal fees Mr Morgan is said to have been exposed to. This makes it very difficult to assess the reasonableness of the costs incurred.

[4]   The hearing was completed in one day. Having regard to the nature of the investigation, and in the principled exercise of my discretion **Waiotahi Contractors Limited is to pay to Mr Morgan the amount of $3,000 in costs**.

Vicki Campbell
Member of Employment Relations Authority