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Mudge v Botany Plastics Limited (Auckland) [2007] NZERA 112 (18 May 2007)

IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND

AA 109 A/07 File Number: 5046193

BETWEEN MAGDALENE MUDGE

Applicant

AND BOTANY PLASTICS LIMITED

Respondent

Member of Authority: Leon Robinson

Representatives: Graeme Norton for Applicant

Mary-Ann Murray for Respondent

Determination: 18 May 2007

DETERMINATION OF THE AUTHORITY AS TO COSTS

[1] By a Determination dated 16 April 2007, the Authority resolved the employment relationship problem between these parties by formal orders in the applicant Ms Magdalene Mudge's ("Ms Mudge") favour. Ms Mudge now asks the Authority to order that Botany Plastics Limited ("Botany Plastics") contribute to her costs because the parties have not been able to resolve the matter informally between them.

[2] Mr Norton for Ms Mudge advises Ms Mudge's costs are in the total sum of \$6,034.50 inclusive of GST. That sum represents 29.8 hours of professional involvement but does not include attendances related to mediation. Ms Mudge seeks a contribution of \$3,000.00.

[3] Ms Mary-Ann Murray for Botany Plastics, makes a submission to the Authority in relation to costs. Ms Murray asks that an amount of \$1,137.50 plus GST be deducted from Mr Norton's costs or any monies awarded to Ms Mudge. She says the mediation did not proceed but Botany Plastics incurred this cost in respect of its professional representation. It is not however, Botany Plastics costs which are relevant, because an award of costs typically follows the event. As Ms Mudge succeeded in her claim before the Authority, it is only her costs which now fall to be considered.

[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 proceeded one day. Ms Mudge succeeded in her claim and is therefore to be regarded as the successful party. She is entitled to a contribution to her costs. Costs awards in the Authority are modest and in this instance, I see no reason to depart from the conventional tariff.

[6] Accordingly, exercising my discretion on a principled basis, I conclude a contribution of \$2,000.00 is appropriate. **I order Botany Plastics Limited to pay to Magdalene Mudge the sum of \$2,000.00 as a contribution to costs.**

Leon Robinson

Member of Employment Relations Authority
