

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Pauline Nicholson (First Applicant)
AND Gloria Nikora (Second Applicant)
AND Evelyn Liddington (Third Applicant)

AND Te Awamutu Residential Trust (Respondent)

REPRESENTATIVES Rose Alchin, Counsel for for Applicants
Allan Fursdon, Advocate for Respondent

MEMBER OF AUTHORITY Marija Urlich

SUBMISSIONS RECEIVED May, June 2004

DATE OF DETERMINATION 21 January 2005

COSTS DETERMINATION OF THE AUTHORITY

[1] In my determination of 26 April 2004, I upheld the applicants' interpretation of the disputed provision of their identical individual employment agreements and made awards of wage arrears and interest. I reserved the issue of costs and invited the parties to first try to resolve this issue themselves.

[2] I have received costs submissions from Ms Alchin for the applicants and Mr Fursdon for the respondent. I understand from their submissions that the parties have attempted, without success, to resolve the issue of costs and now seek the Authority's determination of this issue.

[3] The respondent has challenged this determination. That is not a reason not to determine costs in terms of the Authority's investigation.

[4] Ms Alchin seeks the sum of \$9000.00 plus GST which represents two-thirds of the actual costs incurred by the applicants. She submits the sum sought is appropriate given the applicants were the successful party, the level of preparation necessary, the length of the hearing and subsequent written submissions.

[5] Mr Fursden submits the contribution to costs sought by the applicants is excessive given the length of the hearing.

[6] The applicants' employment relationship problem concerned a claim for wage arrears and personal grievances for unjustified dismissal. The investigation meeting ran for two days but was not legally complex and written submissions were received subsequent to the investigation meeting. Two-thirds of the first day concerned the wage claim, the remaining time the personal grievances. Subsequent to the investigation meeting the parties settled the applicants' personal grievances. The

contribution to costs sought concerns only the outstanding issue between the parties, the wage claim.

[7] I am of the view this is an appropriate case for an award of costs. I acknowledge the case was important to both parties and the applicants' have been put to considerable expense in pursuing their claim for wage arrears. In all the circumstances and taking into account the principles relating to costs as set out in *New Zealand Airline Pilots Association v The Registrar of Unions* [1989] 2 NZILR 550 and *Reid v Fire Services Commission* [1995] 2 ERNZ 38 I am of the view that an appropriate award of costs including disbursements is \$2100.00.

[8] I order Te Awamutu Residential Trust to pay jointly to Pauline Nicholson, Gloria Nikora and Evelyn Liddington the sum of \$2100.00 as a contribution to their costs and disbursements.

Marija Urlich
Member of Employment Relations Authority