

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Carolyn Olsson

AND Keith Matheson Limited

REPRESENTATIVES

Carl Howard-Smith for the Respondent

MEMBER OF AUTHORITY Marija Urlich

INVESTIGATION MEETING 4 April 2006

DATE OF DETERMINATION 19 July 2006

DETERMINATION OF THE AUTHORITY AS TO COSTS

[1] Mr Howard-Smith filed a costs memorandum on 27 April 2006, in accordance with the directions made at paragraph 27 of the relevant determination (AA107/06). He provided further information at the Authority's request. Keith Matheson Limited has not filed a costs memorandum. I am satisfied that KML is aware of the determination and Mr Howard-Smith's costs memorandum. Sufficient time has been provided for KML to file a costs memorandum and it is now appropriate to move to determine the matter of costs.

[2] Mr Howard-Smith advises that the costs incurred by Ms Olsson in pursuing her personal grievance total \$2,812.50 (including GST). Mr Howard-Smith submits that factors to be considered in weighing the issue of costs include that this employment relationship problem was capable of settlement, that the grounds of Ms Olsson's personal grievance were obvious, that no Calderbank settlement offer was made and that KML failed to attend the scheduled investigation meeting without prior explanation. He submits that an award of \$2,500 plus GST should be made in Ms Olsson's favour.

[3] The actual costs Ms Olsson has incurred are reasonable. This was a straightforward application which has benefited from a straightforward approach to its presentation. The investigation meeting was short, mainly due to KML's non attendance. Any disputed issues were resolved in Ms Olsson's favour; though KML filed a statement in reply and a witness statement Ms Olsson's evidence was not challenged at the investigation meeting. An award of indemnity costs is very unusual in this jurisdiction and I am not satisfied that grounds for such an award have been made out. However, Ms Olsson is entitled to a fair contribution to costs reasonably incurred. **Keith Matheson Limited is ordered to pay Carolyn Olsson \$1500 as a contribution to costs incurred in pursuing her personal grievance in the Authority.**

Marija Urlich
Member of Employment Relations Authority