

*Under the Employment Relations Act 2000*

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON OFFICE**

**BETWEEN** Robert Osborne (Applicant)  
**AND** J A Ramsay Transport Limited (Respondent)  
**REPRESENTATIVES** Trent Petherick for Applicant  
Gary Tayler for Respondent  
**MEMBER OF AUTHORITY** G J Wood  
**SUBMISSIONS RECEIVED** By 12 February 2007  
**DATE OF DETERMINATION** 1 March 2007

**COSTS DETERMINATION OF THE AUTHORITY**

1. Mr Osborne originally made claims relating to unjustified constructive dismissal, wage arrears of many thousands of dollars and a penalty for refusal to provide an individual employment agreement. The latter claim was withdrawn prior to the investigation meeting because it was out of time.
2. I concluded that the personal grievance claim was raised out of time and that even if it was in time, Mr Osborne was not constructively dismissed. One of the main reasons I so concluded was because I found that Mr Osborne had not been underpaid, except for four trips to Auckland and therefore awarded him \$162 gross in lost wages, a small proportion of the amounts he claimed.
3. As implied by the Employment Court in *Greening v. About Demolition and Contracting (2003) Ltd* unreported, Shaw J, 6 November 2006, WC21/06, the Authority's jurisdiction in costs can take into account the degree of success of one or either party when awarding costs.

4. In this case I find that the respondent, J A Ramsay Transport Limited, was successful in defending all of Mr Osborne's claims, with one minor exception. That exception was minor both in terms of the money awarded and the time spent in investigating it by the Authority.
5. Taking these considerations into account, I find that were it not for the provision of legal aid in this case, I would have required Mr Osborne to pay to J A Ramsay Transport Limited the sum of \$2,400 in costs, after allowing for a small discount on the point on which he was successful. Because Mr Osborne was legally aided, however, he can only be required to pay the sum of \$50 in costs.
6. I therefore order the applicant, Mr Robert Osborne, to pay to the respondent, J A Ramsay Transport Limited, the sum of \$50 in costs.

**G J Wood**  
**Member of Employment Relations Authority**