

*Under the Employment Relations Act 2000*

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND OFFICE**

**BETWEEN** Sue Pope (Applicant)  
**AND** Maori Television (Respondent)  
**REPRESENTATIVES** Helen Thorpe for applicant  
Eska Hartdegen for respondent  
**MEMBER OF AUTHORITY** Alastair Dumbleton  
**COSTS SUBMISSIONS** 29 March 2005  
**RECEIVED**  
**DATE OF DETERMINATION** 26 April 005

**DETERMINATION OF THE AUTHORITY AS TO COSTS**

[1] In a determination dated 21 December 2004 the Authority found that the respondent employer, Maori Television Service, had no legal responsibility in relation to the decision made by the applicant employee, Ms Sue Pope, to resign from her job with the broadcaster. In reaching my decision I found that Ms Pope's claims that her employer had in various ways breached her employment agreement were not supported by evidence. I concluded that MTS acted fairly and reasonably in the particular circumstances although, undoubtedly, they did cause Ms Pope to become discontented in her work and resign in consequence.

[2] In accordance with this outcome MTS seeks a contribution from Ms Pope to its legal costs. These were \$20,981. MTS submits that 66% of that sum, or \$13,847, represents a reasonable contribution to costs actually incurred.

[3] On behalf of Ms Pope it is conceded that as the unsuccessful party she can in principle be required to compensate MTS for some of its costs.

[4] The investigation of this employment relationship problem was straightforward. The meeting occupied about one day in total time, although that was spread over two days for the convenience of one witness. Serious allegations were made by Ms Pope which unfortunately proved to be without foundation. It is understandable that given the nature of some of those allegations which included racial discrimination, and given the identity of MTS, extensive and thorough preparation was made by the employer for the investigation. This added to its costs.

[5] Though it might be with hindsight, the parties may now feel cause to reflect on the opportunities they had in mediation to resolve this employment relationship problem in a less costly and more mutually satisfactory way than an Authority investigation can do. It is submitted on behalf of Ms Pope that MTS did not act in good faith in trying to resolve the dispute without requiring an Authority investigation. That situation if it existed is not something I can look into,

given the confidentiality required to be observed in respect of mediation.

[6] It is also submitted that Ms Pope simply wanted to be heard and acknowledged by MTS. I do not know whether she now feels that she achieved that objective which in monetary terms now proves to be an expensive one.

[7] Based on an hourly rate of \$250 for 24 hours (3 days total preparation and hearing time) \$6000 is the total of notional reasonable costs I consider appropriate for this case. Recognising the almost complete lack of merit in Ms Pope's claims, a higher percentage of those total notional reasonable costs should be awarded, but it should not be as high as to punish Ms Pope rather than to compensate MTS.

[8] I award MTS costs of \$3500, or nearly 60% of \$6000. Although this is a high amount for a one day investigation meeting it is justified by the features of the claim already mentioned and by the way the claim was conducted.

#### Determination

[9] Ms Pope is ordered to pay to Maori Television Service costs of \$3500. The order is made under clause 15 of Schedule 2 of the Employment Relations Act 2000.

A Dumbleton

**Member of Employment Relations Authority**