

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

[2012] NZERA Christchurch 27
5142848

BETWEEN HOPI PALMER
 Applicant

AND SBA PACIFIC LIMITED
 Respondent

Member of Authority: M B Loftus

Representatives: Steven Zindel, Counsel for Applicant
 Glenn Browne, for Respondent

Submissions received: 2 December 2011 from the Applicant
 Nil from the Respondent

Determination: 16 February 2012

COSTS DETERMINATION OF THE AUTHORITY

[1] On 3 November 2011 I issued a determination granting a compliance order sought by the applicant, Ms Hopi Palmer.

[2] The issue of costs was reserved with Ms Palmer, as the successful party, being advised that if she wished to seek a contribution toward her costs, she should do so via a written application. She does.

[3] There is no reply from the respondent, SBA Pacific Limited. That is not surprising given this matters history. Mr Browne, a Director of, and shareholder in, SBA Pacific initially provided a statement in reply to the original claim. He then chose to take no further part in the process and ignored any subsequent correspondence, along with messages left with his staff.

[4] The same is occurring again despite advise in the substantive determination SBA can not avoid its responsibilities by simply ignoring them. In the circumstances, and given that a costs determination can be reconsidered, I consider it appropriate that I proceed and determine the matter.

[5] Mr Zindel advises, in an application that explains how they were incurred, that Ms Palmer's costs total \$2240.56 (including disbursements of \$101.56). He seeks \$1,500.00 plus disbursements as a contribution toward that total.

[6] Normally the Authority will assess costs on a daily tariff basis: refer *PBO Ltd (formerly Rush Security Ltd) v Da Cruz* [2005] ERNZ 808. In assessing that tariff a common starting point is \$3,000 per day: refer *Chief Executive of the Department of Corrections v Tawhiwhirangi (No 2)* [2008] ERNZ 73. From that point adjustment may occur depending on the circumstances.

[7] Applying that formula is a little difficult in this instance as there was no investigation meeting and the determination made on the papers filed in the Authority. That approach was taken as a result of Mr Browne's failure to participate. Had he chosen to participate, I have no doubt that half a day would have been allocated for the matter and, applying *Da Cruz* and *Tawhiwhirangi (No 2)*, the \$1,500 sought would then have been reasonable. Similarly, I consider the claim for disbursement reasonable, especially as some 70% of it was incurred as a result of application fee.

[8] Given that, and the lack of an argument as to why a lesser sum should apply, I consider amount sought appropriate and order SBA Pacific Limited to pay Ms Palmer the sum of \$1,601.56 (sixteen hundred and one dollars, fifty six cents) as a contribution toward costs.

M B Loftus
Member of the Employment Relations Authority