

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Gordon Parker (Applicant)

AND Michael Colosimo (First Respondent)
AND Taffy's Bar Limited t/a The Kingsley Jones (Second Respondent)

REPRESENTATIVES Hamish Russ, Advocate for Applicant
Kim Stretton, Counsel for First Respondent
Kim Stretton, Counsel for Second Respondent

MEMBER OF AUTHORITY Dzintra King

MEMORANDA RECEIVED 25 August 2005 from Applicant
8 September 2005 from Respondent

DATE OF DETERMINATION 6 October 2005

COSTS DETERMINATION OF THE AUTHORITY

The applicant was successful in his claim and now seeks costs.

Mr Russ's charge out rate is \$40 per hour plus GST. One hundred and forty two hours are claimed at a total cost of \$6,390. Mr Russ has claimed for hours prior to mediation. The applicant seeks an award of 80% of the full costs incurred. This includes 24 hours spent preparing closing submissions for a case that was not complex. The respondent says that a sum no greater than \$1,500 should be awarded.

The applicant also seeks witness expenses. Two of the witnesses attended pursuant to a summons issued but the Authority and have been paid witness fees. The other witness was from Tauranga where the hearing was held and I have no information as to any loss incurred by that witness.

Disbursements sought include the \$70 filing fee, faxing, printing and photocopying costs of \$97.43, phone calls totalling \$14.80, postage \$26.95 and travel costs of \$12.98. The disbursements claimed amount to \$222.16.

The matter was heard in the space of a day. The applicant did incur additional costs because of the need to locate two witnesses and was put to additional expense by the respondent's denial that it held the wages records.

I am not prepared to include costs incurred before or during mediation because Mr Colosimo did attend the mediation. Despite that, because the applicant did have to have additional work

undertaken, this is a case which calls for a higher than normal level of costs' award. The first respondent is to pay to the applicant the sum of \$2,000 plus \$222.16 in disbursements.

Dzintra King
Member of Employment Relations Authority