

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2014] NZERA Auckland 375  
5444344

BETWEEN                      DARRYL PATON  
   Applicant  
  
A N D                              LENDICH CONSTRUCTION  
   LIMITED  
   Respondent

Member of Authority:      Rachel Larmer  
  
Representatives:              Roland JC Samuels, Advocate for Applicant  
   Danny Lendich, Director of Respondent  
  
Investigation Meeting:      On papers  
  
Submissions:                      27 August 2014 from Applicant  
   03 September 2014 from Respondent  
   07 September 2014 from Applicant  
   08 September 2014 from Respondent  
  
Date of Determination:      09 September 2014

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**COSTS DETERMINATION OF THE AUTHORITY**

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- A.      Lendich Construction Limited (Lendich Construction) is ordered to pay Mr Paton \$1,750 towards his actual costs together with \$71.56 to reimburse him for his filing fee within 28 days of the date of this determination.**

## **Employment relationship problem**

[1] In a determination dated 19 August 2014 the Authority held that Mr Paton was unjustifiably dismissed by Lendich Construction.<sup>1</sup> As the successful party he is entitled to a contribution towards his actual costs.

[2] The parties were encouraged to resolve costs by agreement but that has not occurred. I am satisfied from the invoice filed with the Authority that Mr Paton has incurred actual costs of \$2,193.40.

[3] Mr Paton left the amount of the costs to be awarded to the Authority's discretion. Mr Lendich submits costs should lie where they fall. He made a number of submissions about this case and the Authority's determination which are not relevant to costs so are not repeated here.

[4] I adopt the Authority's usual notional daily tariff based approach to costs. This matter involved a half day investigation meeting. The notional starting point for assessing costs in this matter is \$1,750 (being half of the current notional daily tariff of \$3,500).

[5] Neither party identified any factors which should result in adjustments being made to the notional starting tariff. Nor am I aware of any. I therefore consider it appropriate to adopt the notional daily tariff on a pro-rata basis without adjustment.

## **Orders**

[6] Lendich Construction is ordered to pay Mr Paton within 28 days of the date of this determination \$1,750 towards his actual costs together with \$71.56 to reimburse his filing fee.

**Rachel Larmer**  
**Member of the Employment Relations Authority**

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<sup>1</sup> [2014] NZERA Auckland 341.