

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Linda Pereira (Applicant)
AND New Zealand Cambridge Academy Limited (Respondent)
REPRESENTATIVES Michael O'Brien, for Applicant
David J Ross, for Respondent
MEMBER OF AUTHORITY Y S Oldfield
SUBMISSIONS 26 October 2004, 17 March 2005
DATE OF DETERMINATION 29 March 2005

DETERMINATION OF THE AUTHORITY AS TO COSTS

In a determination dated 24 September 2004 I concluded that Ms Pereira's dismissal was unjustified and awarded her \$7,429.45 lost earnings and \$4,000.00 compensation for hurt and humiliation. The parties have not been able to resolve the issue of costs and I now determine that issue on the basis of their written submissions.

Mr O'Brien has argued for his client that an award of costs in the vicinity of \$3,000.00 is appropriate. He did not tell me what the actual costs were but he did say that Counsel's hourly rate was \$245.00. He said that as this matter required an investigation meeting of a day followed by written submissions the total hearing time should be treated as 12 hours. Applying a multiplier of 1.5 at a minimum would equate to costs of \$4,410.00 exclusive of GST.

Mr Ross reminded me that prior to the investigation meeting the Academy had made an offer to settle of \$6,000.00 and argued that since this was "relatively close" to the award made, each party should carry their own costs.

Determination

I do not consider the offer made to be "relatively close" to the award made. It is therefore of no relevance to the issue of costs.

There is nothing unusual about this case or the conduct of it. The investigation meeting was approximately six hours in total. I do not accept that taking closing in writing need be treated as an extension of the hearing time. I also consider a multiplier of 1.5 ample in relation to what was a relatively simple case both factually and legally. Applying the formula $\$245 \times 6 \times 1.5$ reasonable costs come to \$2,205.00 exclusive of GST.

I accept that Ms Pereira should receive a reasonable contribution to costs. A contribution of approximately 60% of \$2,205.00 would be in line with other similar cases.

On that basis I order New Zealand Cambridge Academy to pay to Ms Pereira the sum of \$1,300.00 as a contribution to her costs.

Y S Oldfield
Member of Employment Relations Authority