

*Under the Employment Relations Act 2000*

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH OFFICE**

**BETWEEN** Maia Rota (Applicant)  
**AND** Sea Products Limited (Respondent)  
**REPRESENTATIVES** Peter Cranney, Counsel for Applicant  
Robert Thompson, Advocate for Respondent  
**MEMBER OF AUTHORITY** Helen Doyle  
**SUBMISSIONS RECEIVED** 21 June 2006  
18 July 2006  
**DATE OF DETERMINATION** 16 August 2006

**COSTS DETERMINATION OF THE AUTHORITY**

[1] In my determination of 22 May 2006 I found in favour of the respondent and reserved the issue of costs.

[2] I received submissions from Mr Thompson on behalf of the respondent and Mr Cranney on behalf of the applicant.

[3] The Authority's determination has been challenged and Mr Cranney has suggested in his submissions that the Authority leave the determination of costs until after the challenge is dealt with. I do not intend in the circumstances to set out why this request has been made but I am of the view, notwithstanding the submission by Mr Cranney, I should proceed to determine the issue of costs.

***Submissions***

[4] The respondent has incurred actual costs of \$5,400.00 and seeks a contribution toward its costs in the sum of \$3000.00.

[5] Mr Thompson submits that the respondent made two offers to resolve the matter contained in letters headed *without prejudice except as to costs*. I have regard to the first of these offers only, as the second was made in quite unusual circumstances. I treat the first offer as evidence that there was an attempt by the respondent to resolve the matter before the investigation meeting. I have not had regard to paragraphs 3 and 4 of Mr Thompson's submission as to costs.

[6] Mr Cranney says that the applicant did nothing to add unreasonably to the costs in preparation for or in the conduct of the proceedings. He submits that it was a straightforward dismissal with no difficult or complex issues of law and therefore only a modest award is called for.

***Determination***

[7] The Authority exercises its discretion with respect to an award of costs by taking a principled approach. The types of principles that are consistent with the Authority's functions and powers are set out and approved in the judgment of the full Court in *PBO Limited (formerly Rush Security Limited) v Da Cruz* (unreported) 9 December 2005 AC 2A/05.

[8] There was nothing in the complexity of the case or the investigation process that would cause a departure from the usual approach to costs in the Authority. Awards in the Authority for costs will generally be modest and are frequently judged against a notional daily rate. The majority of cost awards in the Authority fall within the range \$2000 to \$2499.00.

[9] The investigation meeting took almost a full day.

[10] There should be an award of costs to the respondent and in all the circumstances I consider a fair and reasonable amount is the sum of \$2000.00.

[11] I order Maia Rota to pay to Sea Products Limited the sum of \$2000.00 as a contribution toward its costs.

Helen Doyle  
Member of Employment Relations Authority