

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

[2012] NZERA Wellington 59
5347493

BETWEEN BERNADETTE RAPAEA
 Applicant

AND RADIUS RESIDENTIAL
 CARE LIMITED
 Respondent

Member of Authority: P R Stapp

Submissions received by: 29 May 2012

Determination: 30 May 2012

DETERMINATION OF THE AUTHORITY

Costs were reserved

[1] Both parties have been unable to settle costs. The applicant has applied through her union for \$2,300 in costs and \$525.54 disbursements. Disbursements include the filing fee \$71.56, evening meal \$15.40, over night allowance \$20, accommodation \$153, airfare \$316.01 and taxis \$215.16. Radius has claimed that the request for costs is unwarranted because of the union's involvement backing the applicant and if any costs are due they should only amount to \$423.58 for an air fare and taxis.

Issues

[2] Is the applicant entitled to costs and if so, what sum of costs is the applicant entitled to?

The principles relating to costs

[3] The principles relating to costs in the Employment Relations Authority are set out in *P B O Limited (formerly Rush Security Ltd) v Da Cruz* [2005] ERNZ 808. I do not intend to depart from these. The starting point is the notional daily tariff of \$3,500.

[4] Also, where a union is acting it has been held that in house lawyers for the union can be reimbursed for reasonable costs. This was applied in *O'Malley v Vision Aluminium Ltd (No 3)* [1992] 2 ERNZ 1043 and the principle has been set ever since.

Determination

[5] There has been nothing produced that influences me not to depart from the usual arrangement for costs. In this case the applicant was successful and costs follow the event. Ms Rapaea was supported by her union and she was represented by in house counsel. I am satisfied that the union has incurred costs for the matter and that this can be recovered under the arrangements for costs in the Employment Relations Authority. I am also satisfied that the disbursements are reasonable in the circumstances where Counsel for the union needed to travel and had to file in the Authority for a result.

[6] This is a matter for applying the daily tariff and I note that the claim comes in under the notional tariff for one day. The union has acted generously in regard to this.

[7] Therefore I award Ms Rapaea \$2,300 costs and \$525.54 in disbursements.

Orders of the Authority

[8] Radius Residential Care Limited is to pay Bernadette Rapaea \$2,300 costs and

\$525.54 in disbursements for the use of the Service and Food Workers Union Nga Ringa Tota Inc.

P R Stapp

Member of the Employment Relations Authority