

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2011] NZERA Auckland 316
5332872

BETWEEN

DAVID RAWCLIFFE
Applicant

AND

RHB CHARTERED
ACCOUNTANTS LTD
First Respondent

KENNETH BROWN
Second Respondent

STEVEN WILKINS
Third Respondent

Member of Authority: Dzintra King
Representatives: Applicant In Person
Iain Hutcheson, for Respondents
Submissions received: 20 April 2011 from Applicant
13 April 2011 from Respondent
Determination: 19 July 2011

COSTS DETERMINATION OF THE AUTHORITY

[1] The applicant, Mr David Rawcliffe, originally named RHB, Kenneth Brown and Steven Wilkins as respondents.

[2] After mediation Mr Rawcliffe filed an amended Statement of Problem changing the names of the respondents to Circle 54 NZ Ltd formerly known as Eurotech Ltd and Eurotech Audio Ltd (In Receivership).

[3] Mr Hutcheson has made an application seeking costs on behalf of the originally named respondents.

[4] Mr Hutcheson represented the original respondents at mediation. The other expense incurred was the filing of a Statement in Reply.

[5] The costs incurred amount to \$5,583.00. The respondents seek a reasonable contribution to those costs.

[6] There are no grounds to award costs. This matter is no different from any other matter that either settles at mediation or is withdrawn after mediation.

[7] In *Eniata v AMCOR Packaging (NZ) Ltd t/a AMCOR Kiwi packaging*, EmpC Auckland AC19A/02, 24 May 2002, Colgan J stated that he had reservations regarding whether the Authority could order costs for participation in mediation.

[8] In *Naturex v Rogers* [2011] NZEmpC 9, Judge Ford stated that he did not see how it could be realistically determined whether, in the course of a mediation, the conduct of either a party had tended to increase or contain costs. He declined to award mediation related costs.

[9] I decline to make an award of costs.

Dzintra King

Member of the Employment Relations Authority