

Determination Number: WA 53A/05

File Number: WEA 292/04

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON OFFICE**

BETWEEN	Ahlam Riyad (applicant)
AND	Erol Gurleyen (first respondent)
AND	Mavi Limited (second respondent)
REPRESENTATIVES	Paul McBride & Melanie Brewer for the applicant The first and second respondents did not respond to the opportunity to make submissions in respect of these proceedings
MEMBER OF THE AUTHORITY	Denis Asher
SUBMISSIONS RECEIVED	24 May 2005
DATE OF DETERMINATION	20 June 2005

DETERMINATION OF AUTHORITY: Costs

Employment Relationship Problem

1. I earlier found in favour of Ms Ahlam Riyad's claim that she had been unjustifiably dismissed by the respondents – refer to determination WA 179/04, dated 23 December 2004. Costs were reserved.
2. In a determination dated 31 March 2005 (WA 53/05) I directed the respondent parties to pay to Ms Riyad as a reasonable contribution to the legal aid granted her thus far the sum of \$2,206.25. Leave was reserved to the applicant to pursue a further costs award in the event that she succeeded with her then application for an extension of legal aid.

Submissions: the applicant's position

3. By way of a letter dated 24 May 2005 counsel for the applicant, Ms Melanie Brewer, forwarded advice from the Legal Services Agency dated 14 April advising that an amendment to the grant had been approved. *"The maximum grant has been increased by \$3,000.00."* And, *"The total maximum grant for this case is now \$5,206.25"*.
4. The Authority is asked to reconsider its costs decision in light of this increase.

Respondents' positions

5. Advice of the application was forwarded to Mr Gurleyen at the address previously provided by him: he did not respond to that advice.
6. Advice of the application was also forwarded to Mavi Limited, the second respondent's, registered address but was returned marked *"not at this address"*. The second respondent has not advised the Authority of any change to its address in the meantime, despite its extensive involvement in these proceedings and its earlier, but now discontinued, use of counsel.
7. As my Final Report in Relation to Good Faith dated 25 February 2005 makes clear both respondents knew of the employment relationship problem from before it was filed with the Authority but both have consistently ignored the matter.

8. The respondents' failure to respond to this latest development is consistent with their behaviour throughout these proceedings.

Discussion and Findings

9. I am satisfied that in this instance there is every reason for costs to follow the event.
10. I previously accepted the submissions on the applicant's behalf that the respondents' conduct unnecessarily added to Ms Riyad's costs, including adjournment and personal service on the respondents. I am satisfied that the further, and final amount, claimed, should also be recovered for the same reason.
11. I am also satisfied that this final amount claimed on the applicant's behalf is, consistent with the well-known principles applying to costs, entirely realistic and that it should be paid in its entirety.

Determination

12. For the reasons set out above I find in favour of the applicant, Ahlam Riyad's, preliminary claim that she is entitled to recover from the respondents, Erol Gurleyen and Mavi Limited, the entire legal aid amount granted to her. Accordingly, I direct the respondents, jointly and severally, to pay to Ms Riyad the sum of \$3,000.00 (three thousand dollars).
13. The effect of this determination, and WA 53/05 dated 31 March 2005, is that the respondents are to jointly and severally pay to Ms Riyad costs totalling \$5,206.25 (five thousand and two hundred and six dollars and twenty-five cents).

Denis Asher

Member of Employment Relations Authority

