

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

[2013] NZERA Christchurch 21  
5329621

BETWEEN                    HILARY ANNE ROSS  
   Applicant  
  
AND                            MIDTOWN MEDICAL  
   LIMITED  
   Respondent

Member of Authority:      M B Loftus  
  
Representatives:            Damien Pine, Counsel for the Applicant  
   Nil on behalf of the Respondent  
  
Submissions Received:    17 December 2012 from the Applicant  
   Nil from the Respondent  
  
Determination:              25 January 2013

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**COSTS DETERMINATION OF THE AUTHORITY**

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[1]      On 22 November 2012 I issued a determination concluding Ms Ross had a personal grievance in that she was unjustifiably dismissed. Costs were reserved.

[2]      Ms Ross incurred costs of \$9,837.18 toward which she now seeks a contribution.

[3]      The application was filed on 17 December 2012. Normally a response is required within 14 days but because Christmas was imminent the respondent was advised that would be extended to 14 January 2013. Despite evidence the costs application was delivered to the respondent there has been no reply. In these circumstances I consider it appropriate to determine the claim.

[4]      Normally the Authority will use a daily tariff approach when addressing such a claim (refer *PBO Ltd (formerly Rush Security Ltd) v Da Cruz* [2005] ERNZ 808). The normal starting point is \$3,500 per day and from there adjustment may be made depending on the circumstances.

[5] The hearing took a day which would, applying the above formula, mean an award in the order of \$3,500.

[6] Ms Ross seeks a greater amount and suggests \$6,000 is appropriate. Her position is supported with reference to the respondent's behaviour which, it is contended, put the parties to increased and unnecessary costs. That said the only example offered is the respondent's initial failure to attend mediation.

[7] That does not persuade this is situation where I should depart from the normal tariff. That is for the following reason. While the Act makes it clear mediation is both desirable and a preferred means of resolving employment conflict, it is not mandatory but, in any event, the alleged deficiency was remedied with the parties eventually attending mediation at the Authorities direction.

[8] Ms Ross also seeks reimbursement of the filing fee of \$71.56. That was a disbursement which was clearly incurred and I consider its recompense reasonable

[9] For the above reasons I order the respondent, Midtown Medical Limited, to pay the applicant, Ms Hilary Ross, the sum of \$3,571.56 (three thousand, five hundred and seventy one dollars and fifty-six cents) as a contribution toward the costs Ms Ross incurred in pursuing her claim.

**M B Loftus**  
**Member of the Employment Relations Authority**