

*Under the Employment Relations Act 2000*

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND OFFICE**

**BETWEEN** Randhir Sen (Applicant)  
**AND** Robert Wishart and Meg Gaddum (Respondents)  
**REPRESENTATIVES** Michael Meyrick, Advocate for Applicant  
John O'Leary, Counsel for Respondents  
**MEMBER OF AUTHORITY** Ken Anderson  
**SUBMISSIONS RECEIVED** 18 April 2006  
**DATE OF DETERMINATION** 1 May 2006

**DETERMINATION OF THE AUTHORITY AS TO COSTS**

In a determination issued 28 March 2006, the Authority found that there was not an employment relationship between the parties and hence it followed that the Authority did not have jurisdiction. The parties were invited to resolve the matter of costs but a resolution has not been reached. Submissions on costs have been received from the Respondents only. They say that they have incurred total costs of \$12,486.25 and invoices have been provided accordingly.

The original matter was determined on the papers, but given the overall material provided in support of the Respondent's position, I accept that the research and preparation involved by their Counsel equated to that which would be done had an investigation meeting occurred, that probably would have taken the best part of a day.

I also take into account that the arguments advanced by the Applicant were without merit, even bordering on vexatious, particularly given the immigration status of the Applicant at the material times related to his claims. Taking all of the circumstances relating to this particular case into account, I conclude that an award of costs of the sum of \$3,500 is appropriate.

Mr Randhir Sen is ordered to pay to the Respondents the sum of \$3,500.00

**Ken Anderson**  
**Member**  
**Employment Relations Authority**