

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2012] NZERA Auckland 25
5326465

BETWEEN TRISIKHA SANTAWIRYA
 Applicant

AND ADVANCE INTERNATIONAL
 CLEANING SYSTEMS (NZ)
 LIMITED
 Respondent

Member of Authority: Alastair Dumbleton

Submissions Received 12 April 2011, from Respondent

Determination: 19 January 2012

COSTS DETERMINATION OF THE AUTHORITY

[1] In determining the personal grievance claim of the applicant, Mr Trishikha Santawirya, the Authority in its determination of 21 July 2011 gave him 14 days in which to reply to the application for costs made by the respondent, Advance International Cleaning Systems (NZ) Limited, in written submissions received after the investigation meeting held in April 2011.

[2] In those submissions the Authority was advised that although the company's costs had been \$1,500 plus GST, a reasonable contribution to those fees was considered by it to be \$850 including GST.

[3] Mr Santawirya did not take the opportunity given to respond to the costs application.

[4] Following a one day investigation meeting the Authority determined Mr Santawirya's personal grievance claim of unjustifiable dismissal by concluding that the test under s 103A of the Employment Relations Act 2000 applicable to the claim had been met in the circumstances. The Authority concluded that the actions of

Advance International Cleaning Systems (NZ) Ltd and the way it had acted were justifiable as the dismissal had been for reasons of genuine redundancy, a situation that had been handled fairly and reasonably by the employer. Consequently, no orders were required to be made against the employer.

[5] I consider that in an award of costs is appropriate because the successful party, the employer, was put to the expense of participating in the investigation which determined it had not acted unlawfully or wrongfully. It should be compensated with a reasonable contribution made by Mr Santawirya to the company's costs.

[6] Although the representative of the employer at the investigation meeting, Mr Roger Waymouth, was apparently employed by the company as its accountant, I accept that before the investigation meeting advice was received and paid for from a professional representative. This was apparent from the final submissions that were filed by the company.

[7] Although the amount sought is at the lower end of the daily tariff often applied by the Authority in awarding costs, I consider that \$600 is an appropriate amount in this case which was relatively straightforward, enabling the company to represent itself without the need for a legal representative to attend at the investigation meeting.

[8] Mr Santawirya is ordered to pay that amount to Advance International Cleaning Systems (NZ) Limited. The order is made by the Authority in the exercise of its discretion, pursuant to clause 15 of Schedule 2 of the Employment Relations Act 2000.

A Dumbleton
Member of the Employment Relations Authority