

*Under the Employment Relations Act 2000*

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND OFFICE**

**BETWEEN** Ron Schwagler (Applicant)  
**AND** Summit Security Limited (Respondent)

**MEMBER OF AUTHORITY** Alastair Dumbleton

**COSTS SUBMISSIONS**  
**RECEIVED** 19 December 2005 (respondent only)  
10 May 2006

**DATE OF DETERMINATION**

**DETERMINATION OF THE AUTHORITY AS TO COSTS**

[1] In accordance with directions given by the Authority in its determination dated 12 December 2005 and issued under AA 475/05, an application for costs has been made by Summit Security Limited. The Authority found that Mr Ron Schwagler, a former employee, had not been successful in a personal grievance claim he had brought against the company, and it reserved the question of costs.

[2] A memorandum from the company was subsequently received by the Authority on 19 December 2005. It was forwarded to Mr Mike Davis, Mr Schwagler's representative, with a direction that any reply to the costs application was to be provided by 20 January 2006. No reply has been received.

[3] A copy of the invoice shows that Summit Security Ltd was billed \$1,290 by Ms Kathy Hughes' firm for the services she provided in representing the company during the investigation. The investigation meeting itself took less than one day. There was no complexity at all in the legal issues and the factual issues were also quite straightforward.

[4] Costs are almost always awarded by the Authority as a reasonable contribution to actual costs incurred. Awards on a full reimbursement basis are reserved for the most exceptional cases, as can be seen from the fact that (to my knowledge) such an award has yet to be made by the Authority after five years in operation.

[5] It can reasonably be anticipated from the evidence and the apparent personal circumstances of Mr Schwagler that he may have some difficulty meeting an award of costs. Nevertheless his employer was found to have done nothing wrong and should not be unduly disadvantaged financially for taking part in the investigation.

[6] I consider an award of \$900 represents a reasonable contribution to costs in the circumstances of this case. Mr Schwagler is therefore ordered to pay \$900 to Summit Security Ltd. The order is made by the Authority under clause 15 of Schedule 2 of the Employment Relations Act 2000.

A Dumbleton  
**Member of Employment Relations Authority**