

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2013] NZERA Auckland 103
5373182

BETWEEN PARMINDER SINGH
 Applicant

AND PRINTHUB LIMITED
 Respondent

Member of Authority: Trish MacKinnon

Representatives: Mark Nutsford, Advocate for Applicant
 David Anderson, Counsel for Respondent

Submissions received: 21 February 2013 from Applicant
 None from Respondent

Determination: 27 March 2013

COSTS DETERMINATION OF THE AUTHORITY

[1] In my determination of 30 January I found Parminder Singh had been employed by Printhub for a period of 6 months in 2011. During that time he was paid less than half the remuneration he was promised at the outset of his employment. I directed Printhub to pay Mr Singh arrears of wages, including holiday pay, in the sum of \$12,597.20 gross, plus interest at the rate of 5% on that sum from 9 December 2011 to the date of payment. Costs were reserved.

[2] The Authority has received submissions on costs from Mr Nutsford who represented Mr Singh during the investigation. He seeks total costs of \$7,422.36 (inclusive of GST) which represents the full costs incurred by Mr Singh.

[3] Mr Nutsford submits full costs should be awarded to the Applicant who received nothing more than his entitlement to wages owing, plus interest. It would be unreasonable, in his submission, for the Applicant to lose the majority of his award in legal costs.

[4] Mr Nutsford has provided a breakdown of costs, including time spent on preparation and attendance at the 6 hour investigation and the preparation of submissions. This shows a total of 25.08 hours preparation, and disbursements totalling \$211.83, inclusive of GST.

[5] Printhub did not provide submissions on costs despite having sought, and been granted, additional time to do so.

[6] The Authority's ability to award costs is discretionary and is made following consideration of a number of principles which it has developed and applied over the years since the Employment Relations Act 2000 came into force. The principles were referred to with approval by the Full Court in *PBO Ltd (formerly Rush Security Ltd) v Da Cruz*.¹

[7] Costs normally follow the event and it is appropriate that costs be awarded in this instance. Mr Singh was successful in his claim to have been an employee of Printhub. His claim for the payment of wage arrears and holiday pay also succeeded, although his entitlement was somewhat less than he had calculated.

[8] The Authority's investigation took one day only and, while there was a question of identity to resolve, overall the issues were not unduly complex. The matter does not merit an award above the notional daily rate of \$3,500 commonly applied by the Authority. I am satisfied an award of this amount would provide Mr Singh with a fair and reasonable contribution to the fees he has incurred. Additionally, he is entitled to recoup the Authority filing fee of \$71.56 and sundry administrative disbursements.

Determination

[9] Printhub Limited is ordered to pay Parminder Singh \$3,500 in costs plus disbursements of \$211.83, pursuant to clause 15, Schedule 2 of the Employment Relations Act 2000.

Trish MacKinnon
Member of the Employment Relations Authority

¹ [2005] ERNZ 808 (EmpC)