



Employment Court of New Zealand

You are here: [NZLII](#) >> [Databases](#) >> [Employment Court of New Zealand](#) >> [2020](#) >> [\[2020\] NZEmpC 200](#)

[Database Search](#) | [Name Search](#) | [Recent Decisions](#) | [Noteup](#) | [LawCite](#) | [Download](#) | [Help](#)

Sinton v Coatesville [2020] NZEmpC 200 (19 November 2020)

Last Updated: 24 November 2020

IN THE EMPLOYMENT COURT OF NEW ZEALAND AUCKLAND

I TE KŌTI TAKE MAHI O AOTEAROA TĀMAKI MAKĀURAU

[\[2020\] NZEmpC 200](#)

EMPC 139/2020

IN THE MATTER OF	a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER OF	an objection to jurisdiction
AND IN THE MATTER OF	an application for costs
BETWEEN	MARK SINTON Plaintiff
AND	COATESVILLE MOTORS 2013 LIMITED Defendant

Hearing: On the papers

Appearances: P Mathews, advocate for the
plaintiff P McBride, counsel for the
defendant

Judgment: 19 November 2020

COSTS JUDGMENT OF JUDGE KATHRYN BECK

(Application for costs on an objection to jurisdiction)

[1] The defendant applies for costs following this Court's judgment on its successful objection to jurisdiction dated 2 September 2020.¹

[2] The plaintiff asks that the Court use its discretion to order that costs lie where they fall, either on the basis that the matter was novel or, alternatively, in the interests of overall justice.

¹ *Sinton v Coatesville Motors 2013 Ltd* [\[2020\] NZEmpC 137](#).

MARK SINTON v COATESVILLE MOTORS 2013 LIMITED [\[2020\] NZEmpC 200](#) [19 November 2020]

[3] The background to this matter is that, by his statement of claim, the plaintiff sought to bring matters before the Court which were not determined by the Employment Relations Authority. The defendant successfully objected to the scope of the challenge.

[4] The objection was initially raised in a memorandum by the defendant in preparation for a judicial directions conference. A formal application was not required to be filed. However, substantial submissions were filed by both parties.

[5] The consequence of the judgment is that all that remains of the plaintiff's de novo challenge is a claim for \$1,750 in relation to a fuel allowance and other matters.

[6] In her judgment dated 15 July 2020,² Chief Judge Inglis has previously indicated that the Court would likely deal with costs in this case on an ongoing basis, rather than deferring them. She noted that the relatively modest amount of money

in these proceedings appears to be generating a degree of interlocutory activity which, while open to the parties, comes at a cost.³ I agree that it remains appropriate to deal with costs in this matter at this stage, rather than reserve them.

[7] Counsel for the defendant seeks a contribution to costs based on the daily recovery rate for a Category 2B proceeding. He has provided a number of various scenarios under the costs schedules to justify his claim for an amount of \$6,500 (including costs in relation to the preparation of a memorandum in support of the application for costs).

[8] I note that all but one of these scenarios include an item (either 9 or 28) for the filing of an application. However, this was not required. As I have already noted, the objection was raised in a directions conference memorandum and then timetabled from there. In addition, one scenario included item 31; however, there was no bundle filed.

2 *Sinton v Coatesville Motors 2013 Ltd* [2020] NZEmpC 104.

3 At [2].

[9] Further, I do not consider the matter of the scope of the challenge to be particularly complex or to have required a comparatively large amount of time to deal with it.⁴

[10] The plaintiff has previously offered to pay costs of \$2,100 (plus GST) and submits that if this Court is minded to award costs (rather than let them lie where they fall), it should be on the basis of a 2B allocation under item 30 for the preparation of written submissions; therefore, one day at \$2,390.

[11] The rule is that costs follow the event. The defendant was successful in its application, which was defended, and is entitled to a contribution to its costs.

[12] Having regard to all the circumstances, I consider that an order of \$2,500 is appropriate and reasonable, including having regard to the need to retain a sense of proportionality in both incurring costs and fixing them in matters such as this.

[13] The plaintiff is ordered to pay the defendant the sum of \$2,500 within 20 working days of the date of this judgment.

Kathryn Beck Judge

Judgment signed at 1 pm on 19 November 2020

4. "Employment Court of New Zealand Practice Directions" <www.employmentcourt.govt.nz> at No 16, schs 1 and 3.