

BETWEEN ROBIN SKEGGS
 Applicant

AND RADIUS SECURITY LIMITED
 Respondent

Member of Authority: Leon Robinson

Representatives: Maria Dew for Applicant
 Murray Broadbelt for Respondent

Determination: 8 June 2007

DETERMINATION OF THE AUTHORITY

[1] By a Determination dated 16 May 2007, the Authority resolved the employment relationship problem between these parties by formal orders in the applicant Mr Robin Skeggs' ("Mr Skeggs") favour. Mr Skeggs now asks the Authority to order that Radius Security Limited ("Radius") pay his costs because the parties have not been able to resolve the matter informally between them.

[2] Ms Dew advises Mr Skeggs' costs are \$11,850.00 plus GST together with disbursements in the total sum of \$13,646.00. The Authority is advised by responsible counsel that this sum does not include time spent in relation to mediation or for services prior to December 2006. Ms Dew seeks a contribution of two thirds in the sum of \$7,900.00 plus GST, disbursements of \$280.00 and costs of this present application in the sum of \$300.00 plus GST.

[3] Ms Dew makes submissions that the Authority's modest approach to costs ought to be departed from in this instance as a matter of discretion. It is submitted that Mr Skeggs could not have represented himself given the circumstances of the case and there was no offer of settlement prior to investigation meeting. Finally Ms Dew urges that Mr Skeggs ought not have the impact of his award of compensation materially reduced by the actual legal costs incurred.

[4] Mr Broadbelt says that Radius' limitation defences and issues relating to Mr Cates' authority to bind had little if any effect on the investigation meeting time. He further says Mr Skeggs as an experienced professional was more than capable of presenting his own brief to the Authority and representing himself. Mr Broadbelt submits that a modest costs award based on a one day investigation meeting is appropriate.

[5] The exercise of my discretion calls for a determination of what is a fair and reasonable contribution as between the parties. The Authority adopts a principled approach taking into account relevant matters and having no regard for irrelevant ones. Costs in the Authority are modest and a daily tariff has operated both of which are consistent with the objectives which establish the Authority.

[6] The investigation meeting proceeded over one day. Mr Skeggs succeeded in his claims and is therefore to be regarded as the successful party. He is entitled to a contribution to his costs. I do not criticise Mr Skeggs for engaging professional representation. I note that one of the findings I have previously made is that Mr Skeggs was not given the information he was entitled to in relation to taking advice about intended employment agreements. I do not consider it right for Radius to now criticise Mr Skeggs for subsequently engaging advice and representation due substantially in part to Radius' own failures. To recognise this aspect of matters I therefore depart from the Authority's daily tariff by supplementing the higher daily tariff with an added component.

[7] Accordingly, exercising my discretion on a principled basis, I conclude a contribution of \$5,000.00 is appropriate together with disbursements of \$280.00. **I order Radius Security Limited to pay to Robin Skeggs the sum of \$5,280.00 as a contribution to costs.**

Leon Robinson
Member of Employment Relations Authority