



New Zealand Employment Relations Authority Decisions

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Smith v Brookby Quarries Limited (Auckland) [2018] NZERA 278; [2018] NZERA Auckland 278 (31 August 2018)

Last Updated: 14 September 2018

IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND

[2018] NZERA Auckland 278
3020153

BETWEEN EMILY SMITH Applicant

A N D BROOKBY QUARRIES LIMITED

Respondent

Member of Authority: T G Tetitaha

Representatives: E. Smith in person

P. Swarbrick/M. Bowen, Counsel for Respondent

Investigation Meeting: On the papers

Submissions Received: 15 August 2018 from Applicant

29 August 2018 from Respondent

Date of Determination: 31 August 2018

COSTS DETERMINATION OF THE EMPLOYMENT RELATIONS AUTHORITY

A. Each party is to meet their own costs. Employment Relationship Problem

[1] Emily Smith was found to be unjustifiably dismissed by her employer Brookby Quarries Limited (BQL) however no remedies were awarded. Costs were reserved. The parties were directed to file any memorandum in relation to costs within 14 days of the date of the determination.¹

[2] Ms Smith seeks costs of \$1,098.05. BQL also seeks costs of \$6,750.

¹ *Smith v Brookby Quarries Limited* [2018] NZERA Auckland 242.

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[3] The determination was dated 3 August 2018. Ms Smith filed her Memorandum within the timetabling order. BQL's memorandum seeking costs was filed on 29

August 2018 - 12 days outside of the timetabling. There is no explanation why this has occurred.

[4] Ms Smith has appended invoices itemising her costs. No invoices have been provided by BQL.

[5] Although Ms Smith was found to be unjustifiably dismissed, this was due to procedural flaws in the process leading to dismissal. She was not awarded any remedies because of her high level of contributory conduct.

[6] The nature of this case lends itself to no award of costs to either party. Each party is to meet their own costs.

T G Tetitaha

Member of the Employment Relations Authority

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