

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Peter Rex Sowman (Applicant)
AND Sensation Yachts Limited (Respondent)
REPRESENTATIVES Paul Pa'u, Counsel for Applicant
Garry Pollak, Counsel for Respondent
MEMBER OF AUTHORITY Leon Robinson
DATE OF DETERMINATION 30 March 2005

DETERMINATION OF THE AUTHORITY

[1] By a Determination dated 21 September 2004¹ I determined I was unable to assist Mr Peter Sowman ("Mr Sowman") to resolve his employment relationship problem in the manner he sought. Consequently, Sensation Yachts Limited ("Sensation Yachts") now asks that I exercise my discretion to award it costs because the parties were unable to resolve the matter between them.

[2] Sensation Yachts has incurred costs in the sum of \$7,922.45 inclusive of GST and disbursements in assisting the Authority's investigation of Mr Sowman's employment relationship problem. It seeks a contribution of \$5,000.00 plus GST and disbursements of \$150.00 to its actual costs. It is the GST exclusive portion of the actual costs incurred that is relevant for present purposes.

[3] In reply, Mr Swoman's Counsel says the amount sought is excessive and there is no foundation shown to justify any departure from "the established tariff." Counsel further advises Mr Sowman is a man of limited means and that a moderate to low award of costs ought to be made.

[4] It is unhelpful that I am not informed of Mr Sowman's particular means so that I may have regard to his ability to meet any award made against him or consider whether payment by instalment is appropriate.

[5] The investigation meeting proceeded over two days. It did not involve complex legal issues.

[6] I am satisfied that costs should follow the event and that I should exercise my discretion to award costs to Sensation Yachts. Such an award shall not be punitive for Mr Sowman nor illusory for Sensation Yachts. I have no reason not to accept responsible Counsel's advice of Mr Sowman's limited means and I make an allowance accordingly.

¹ AA304/04

[7] In the principled exercise of my discretion, **I order Peter Sowman to pay to Sensation Yachts Limited the sum of \$2,000.00 as a contribution to its costs.**

Leon Robinson
Member of Employment Relations Authority