

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 272A/08
5117899

BETWEEN TATIANA STAVROVSKA
 Applicant

AND UNIFORM GROUP
 (AUCKLAND) LIMITED
 Respondent

Member of Authority: Alastair Dumbleton

Submissions Received 15 August 2008 (Respondent)

Determination: 24 November 2008

COSTS DETERMINATION OF THE AUTHORITY

[1] Uniform Group (Auckland) Limited has applied for an award of costs following the determination given by the Authority on 1 August 2008 under AA 272/08. After an investigation the Authority found against Ms Tatiana Stavrovska, a former employee of the company, who had claimed that she had been constructively dismissed and had not been fully paid commission earned during her employment.

[2] In accordance with directions given, the employer in making written application for costs served a copy on Ms Stavrovska who was allowed 14 days in which to reply.

[3] Nothing has been heard from her.

[4] In accordance with principle, Uniform Group (Auckland) Limited is entitled to a contribution to legal costs reasonably incurred by it in preparing for and participating in the Authority's investigation. Guidance as to fixing an appropriate amount may be had from the judgment of the Employment Court in *PBO Ltd v. Da*

Cruz [2005] 1 ERNZ 808, in which key principles are set out specifically in relation to Authority investigations.

[5] I note in particular the approval given by the Court to the use of a notional daily rate as one means of fixing costs or of cross-checking them by reference to time taken for the investigation. When the Court issued that decision over two years ago, research then had shown that the majority of costs awards for a one day investigation meeting were in the range of \$2,000-\$2,500.

[6] As directed by the Authority in its determination, the employer's representative, Ms Foden, supplied a detailed breakdown of the charges for her services. They total \$2,428.50, the full amount of which is claimed.

[7] Although in this case the actual costs are entirely reasonable for the type of case, recovery of full costs is contrary to principle unless the case is of an exceptional nature, which this one is not.

[8] The investigation meeting took about half a day, reflecting the uncomplicated nature of the matters in dispute both legally and factually. Ms Stavrovska, who represented herself, was misguided in bringing the claims which had very little merit.

[9] In the circumstances, I consider that \$1,450 will be a reasonable contribution to actual costs including disbursements.

[10] Pursuant to clause 15 of Schedule 2 of the Employment Relations Act 2000, Ms Tatiana Stavrovska is therefore ordered to pay \$1,450 as costs to Uniform Group (Auckland) Limited.

A Dumbleton
Member of the Employment Relations Authority