

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

AA 257A/10  
5147601

BETWEEN                      SABINE STEFFEN  
   Applicant  
  
AND                              REGENT INTERNATIONAL  
   EDUCATION                      GROUP  
   LIMITED  
   Respondent

Member of Authority:      Yvonne Oldfield  
  
Representatives:              Tony Kurta for Applicant  
   Jennifer Wickes for Respondent  
  
Submissions received:      21 June 2010 from Applicant  
   9 June, 29 June 2010 from Respondent  
  
Determination:                30 July 2010

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**COSTS DETERMINATION OF THE AUTHORITY**

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[1] This matter involved a claim of unjustified dismissal. In a determination dated 27 May 2010 it was found that the dismissal was procedurally unfair, and so unjustified. However there was serious contributory conduct which reduced remedies by 100%.

[2] The Respondent now claims full solicitor-client costs (\$6,429.00 post-mediation.) It relies on the making of a Calderbank offer shortly after mediation had taken place in March 2009. The Respondent says that the offer (\$1,000.00) was reasonable and timely, and received no response.

[3] For Ms Steffen, Mr Kurta says that the Applicant was successful and that costs should, as usual, follow the event. He says that the respondent's offer to settle should not be taken into consideration because it was very small, would not have covered Ms

Steffen's costs to that point, made no mention of costs and made no admission of liability even in respect of what he describes as clear procedural defects in the matter. He also said "*the applicant did not receive less than the sum offered she received nothing.*"

[4] Mr Kurta says his client incurred post-mediation costs of \$2,475.00 and now seeks a contribution to those costs of \$1,500.00.

### **Determination**

[5] I do not accept Mr Kurta's arguments about the ineffectiveness of the Respondent's purported Calderbank offer. It was reasonable and timely. I note also that it is both commonplace and acceptable for Calderbank letters to contain an express statement that there is no admission of liability. This is an appropriate case to depart from the usual rule that costs follow the event.

[6] The investigation meeting took the better part of a day. I am satisfied that the Respondent's costs were reasonable in the circumstances and that a contribution to costs is called for.

**[7] Ms Steffen is to pay to the Respondent the sum of \$2,500.00 as contribution to its costs.**

Yvonne Oldfield

Member of the Employment Relations Authority