

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

AA 94A/08  
5079084

BETWEEN                      HOPE STEIN  
   Applicant  
  
AND                              GARRARD'S (NZ) LIMITED  
   Respondent

Member of Authority:      R A Monaghan  
  
Representatives:            C Podwin, Counsel for Applicant  
   E Mann, Advocate for Respondent  
  
Submissions received:      28 March 2008 from Applicant  
   2 April 2008 from Respondent  
  
Determination:              10 April 2008

---

**COSTS DETERMINATION OF THE AUTHORITY**

---

[1]      In a determination dated 17 March 2008 I found Ms Stein's dismissal was unjustified. Costs were reserved, and the parties have filed memoranda.

[2]      Mr Podwin said Ms Stein's actual costs in respect of the grievance from the time it was raised were \$8,000. He said further that, in the light of the 'belligerent' (or intransigent) approach Garrard's (NZ) Limited has taken to the resolution of the problem, an award approaching full solicitor and client costs would be appropriate. In making that submission he referred to the company's failure to make the final payments to which Ms Stein was entitled, and its position that the payments would be made if Ms Stein did not pursue her grievance.

[3]      Mr Mann pointed out that both the mediation and investigation meetings were less than half a day, and submitted that an award of solicitor and client costs would be inappropriate.

[4] I am not in a position to make any findings based on Garrard's approach to resolution of this matter in the course of mediation. I do, however, observe that its refusal to make outstanding payments owed to Ms Stein was unsustainable, as was its position regarding her suspension. Otherwise, as Mr Mann pointed out, the investigation meeting was brief, Mr Mann himself was consistently courteous during the meeting, and appropriate concessions were made.

[5] As the successful party Ms Stein is entitled to a contribution to her costs. Although the company's position had little merit I do not accept that an award approaching solicitor and client costs is appropriate. Rather I bear the merits of the company's position in mind when applying the considerations set out in **PBO Limited v Da Cruz**<sup>1</sup>. I bear in mind, too, the brevity of the investigation meeting, its efficient conduct, and the levels of costs commonly awarded in the Authority.

[6] I conclude that an award at the higher end of the rate usually awarded when there has been an investigation meeting of not more than half a day is appropriate. Garrard's is therefore ordered to contribute to Ms Stein's costs in the sum of \$3,500.

R A Monaghan

Member of the Employment Relations Authority

---

<sup>1</sup> [2005] ERNZ 808, [44] – [46]