

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 134/10
5163736

BETWEEN CHUN LING SUN (ANGEL
ROBB)
Applicant
AND GEELEE FASHION LIMITED
Respondent

Member of Authority: Dzintra King

Memoranda received: 25 January and 11 February 2010 from Applicant
29 January and 4 February 2010 from Respondent

Determination: 23 March 2010

COSTS DETERMINATION OF THE AUTHORITY

[1] The applicant, Ms Chun Ling Sun, withdrew her claim to have the matter of her personal grievance heard in the Employment Relations Authority. The respondent seeks a determination in its favour for costs incurred in defending the claims to date.

[2] The matter went to mediation but the parties were unable to resolve it. The applicant says costs should lie where they fall.

[3] The claim by the respondent is misconceived. In *Trotter v Telecom Corporation of New Zealand* [1993] 2 ERNZ 935 Goddard CJ said that the costs of mediation could not be claimed because they were not costs of the actual proceedings, and because parties owed it to each other to put some resources towards a genuine endeavour by way of mediation to settle a dispute.

[4] In *Eniata v AMCOR Packaging (NZ) Ltd t/a AMCOR Kiwi Packaging*, 24/5/02, Colgan J, AC19A/02 the Court noted that it had reservations that the Employment Relations Authority could order costs for participation in mediation.

[5] This case law deals with matters that have actually progressed to a hearing. This matter did not. The Authority cannot award costs in such circumstances.

Dzintra King

Member of the Employment Relations Authority