

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Cheryl Sziranyi (Applicant)
AND Communication Arts Limited (Respondent)
REPRESENTATIVES Mark Ryan, Counsel for Applicant
Penelope Swarbrick, Counsel for Respondent
MEMBER OF AUTHORITY Y S Oldfield
SUBMISSIONS 23 December 2004, 15 February 2005
DATE OF DETERMINATION 7 March 2005

DETERMINATION OF THE AUTHORITY AS TO COSTS

On 24 November 2004 I issued a determination in which I dismissed Ms Sziranyi's claim of constructive dismissal. The parties have subsequently made submissions in relation to the issue of costs and I now proceed to determine the matter.

The respondent advises through Counsel that it incurred costs of \$8,362.50 plus disbursements plus GST. This was in respect of a two day investigation meeting followed by submissions in writing. The respondent argues that this is a reasonable level of costs and notes that it considers that the meeting was lengthened by the "verbose and repetitive manner" in which the applicant answered questions.

The respondent also notes that it incurred a high level of costs in association with mediation as well as costs of executive time and airfares for its chief executive. Ms Swarbrick concludes:

"It is submitted that there is no reason why the respondent in the circumstances of this case should not recover two thirds of its actual fees incurred for the litigation, that is the sum of \$6,318.00."

In reply, the applicant submits through Counsel that 66% is not the usual starting point for a discussion of costs in the Authority. Mr Ryan argues that:

"The respondent in this matter is a large successful business while the Applicant is a single parent with limited financial resources. The Applicant submits that if the Authority were to award costs at such a high level as sought by the Respondent this would act as a disincentive to other employees considering raising personal grievances against employers with large financial resources."

Determination

I accept that the level of costs incurred by the Respondent was reasonable. However I also accept that the Authority need not consider itself obliged to take 66% as a starting point for consideration of costs.

This was an unremarkable case in most respects. I consider it appropriate to make an award within the usual range of costs awards in the Authority. **On that basis, the applicant is ordered to pay to the respondent the sum of \$4,000.00 as a contribution to its costs.**

Y S Oldfield
Member of Employment Relations Authority