

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

[2013] NZERA Christchurch 184
5412635

BETWEEN WIKITORIA TE RANGI
Applicant

A N D INVERCARGILL PASSENGER
TRANSPORT LIMITED
Respondent

Member of Authority: M B Loftus

Representatives: Kevin O’Sullivan, Advocate for Applicant
Janet Copeland, Counsel for Respondent

Submissions Received: 19 July 2013 from Respondent
15 August and 3 September 2013 from Applicant

Date of Determination: 3 September 2013

COSTS DETERMINATION OF THE AUTHORITY

[1] On 26 June 2013 I issued a determination dismissing Ms Te Rangi’s personal grievance on the grounds she had not raised it in accordance with the requirements of the Employment Relationship Act 2000.

[2] Costs were reserved and as the successful party Invercargill Passenger Transport Limited (IPTL) now seeks a contribution toward those it incurred in defending the claim.

[3] Normally the Authority will use a daily tariff approach when addressing a costs claim (refer *PBO Ltd (formerly Rush Security Ltd) v Da Cruz* [2005] ERNZ 808). The normal starting point is \$3,500 per day and from there adjustment may be made depending on the circumstances.

[4] IPTL seeks \$2,000.00 as a contribution toward its costs. It relies upon an application of the approach outlined in 3 above, the fact the investigation meeting took a little less than half a day and an acceptance there were no exceptional

circumstances or important points of law. The request for an increased tariff is supported with a submission there was some uncertainty as to whether or not there would be a late application under s.114(3) of the Act. Extra work had to be undertaken to cover that possibility and further work had to be undertaken in respect to the costs application as Ms Te Rangi did not respond to a letter seeking to resolve the issue.

[5] Ms Te Rangi contends costs should lie where they fall but the rationale supporting that position is unknown. Unfortunately the submission prepared on her behalf was never received by the Authority. Mr O'Sullivan did not keep a copy and Ms Copeland can no longer find the one she acknowledges she received. Mr O'Sullivan now suggests I simply proceed with a determination.

[6] It is normal costs follow the event unless the matter involves a dispute, a test case or the party who will be required to pay is impecunious. There is no suggestion any of these apply so the request costs lie where they fall must fail in the absence of a supporting argument.

[7] Turning to the argument for an increased amount. The time taken was, as conceded, less than half a day – indeed it was around a third and would warrant a tariff of around \$1200. I disregard the argument concerning a late s.114(3) as one was never filed. Neither do I take account of preparing the costs submission as while the submission has merit, I have no knowledge of the resulting cost which I can take into account.

[8] Having considered the submissions and circumstances I conclude a contribution of \$1200 (twelve hundred dollars) is appropriate and order the applicant, Ms Wikitoria Te Rangi, to pay that amount to the respondent, Invercargill Passenger Transport Limited.

M B Loftus
Member of the Employment Relations Authority