

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2014] NZERA Auckland 360
5430713

BETWEEN SHIRLENE NITA TAYLOR
Applicant

AND TAMAKI LEGAL LIMITED
Respondent

Member of Authority: R A Monaghan

Representatives: S Taylor in person
D Naden, counsel for respondent

Memoranda received: 4 and 19 August 2014 from applicant
18 August 2014 from respondent

Determination: 29 August 2014

DETERMINATION OF THE AUTHORITY

**A. Tamaki Legal Limited is ordered to contribute to Shirlene Taylor's costs
in the sum of \$245.35.**

[1] In a determination dated 11 July 2014 I found Shirlene Taylor was dismissed unjustifiably. I also found against Mrs Taylor in respect of five allegations of breach of the employment agreement.

[2] Costs were reserved and the parties have filed memoranda on the matter.

[3] Mrs Taylor's application for costs comprised what amount to disbursements, plus costs – said to be based on a notional daily rate - of \$2,099.52. The total sought was \$3,318.03.

[4] For Tamaki Legal Limited, Mr Naden pointed out that Mrs Taylor represented herself. He submitted that she did not incur costs of representation so the Authority's notional daily rate did not apply, and proposed an alternative to applying the notional

daily rate. The proposal was that an appropriate order would be for a contribution of 70% of: Mrs Taylor's costs of filing, photocopying, courier, and stationery; plus a payment based on her salary of \$35,000 pa and reflecting her costs of preparing for and attending a half day investigation meeting.

Notional daily rate

[5] The investigation meeting lasted for half a day. If Mrs Taylor had incurred costs of representation I would have treated one half of the notional daily rate of \$3,500 as a starting point for assessing costs. I would have taken into account that Mrs Taylor was successful in some matters but not others, and applied a further reduction.

[6] However, in representing herself, Mrs Taylor did not incur such costs. She was obliged to use her own time to prepare for, travel to and attend the investigation meeting, but that applies to any applicant and does not sound separately in costs. There will be no order based on the notional daily rate.

[7] I comment that Mrs Taylor responded to Mr Naden's proposal by saying she had spent 142 hours on her grievance, and her chargeout rate was \$165 per hour. The proposal could not be progressed on that basis. Unfortunately there was an opportunity to resolve the question of costs - particularly in the light of the relatively modest sum Mrs Taylor had sought in the Authority - which was lost when it need not have been.

Disbursements

[8] With the exception of the filing fee, disbursements are usually subsumed in orders based on the notional daily rate. However in the present circumstances it is fair to consider making an order.

[9] The amount sought in respect of the filing fee, photocopying, courier charges and stationery was a total of \$245.35.

[10] Payment of that sum is therefore ordered.

[11] The remaining claims were for the reimbursement of expenses incurred in travelling to Auckland for the investigation meeting. Mrs Taylor is not entitled to be reimbursed for those expenses,¹ and there will be no order in respect of them.

R A Monaghan

Member of the Employment Relations Authority

¹ *Narayan v Telecom New Zealand Limited* [2014] NZEmpC 142