

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 15/10
5159053

BETWEEN ROBERT TAYLOR
 Applicant

AND UNDERGROUND NETWORK
 SERVICES LIMITED
 Respondent

Member of Authority: Robin Arthur

Representatives: Tony Kurta for Applicant
 Margaret Robins for Respondent

Submissions: 18 December 2009 from Applicant and 11 January 2009

Determination: 19 January 2010

COSTS DETERMINATION OF THE AUTHORITY

[1] By determination AA 422/09 (25 November 2009) the Authority ordered Underground Network Services Limited (UNSL) to pay Mr Taylor remedies of lost wages and distress compensation for his unjustified dismissal.

[2] The parties were encouraged to resolve any issues of costs between themselves but have been unable to do so. Mr Taylor has applied for the Authority to award costs.

[3] Costs in the Authority are determined under the principles summarised in *PBO Limited v Da Cruz* [2005] 1 ERNZ 808. The Authority may apply a notional daily rate adjusted up or down according to factors relevant to the particular case.

[4] UNSL accepts costs follow the event of Mr Taylor's dismissal being found unjustified and submits \$1500 would be a reasonable contribution to his costs, along with \$70 to reimburse the filing fee.

[5] The eight line submission on costs from Mr Taylor's representative says total costs of \$4,375 plus gst were incurred and seeks a contribution to costs of \$3250 plus the filing fee.

[6] I take \$3000 as the starting point for an applicable daily rate. In this particular case there are no factors requiring an upward adjustment of that figure. There are however some factors making a downward adjustment appropriate:

- (i) the investigation meeting ran less than a full-day; and
- (ii) the preparation of Mr Taylor's case involved a very brief statement of problem and a witness statement compiled from notes made by Mr Taylor; and
- (iii) the costs said to have been incurred are based on a notional calculation with no evidence of any such amount being invoiced to Mr Taylor.

[7] His claim is calculated on 17.5 hours time which Mr Taylor's representative submitted was "*based on a moderate multiplier of ... 1.5*" for a seven hour hearing day and what appears to be an hourly rate of \$250.

[8] However, in exercise of the Authority's discretion in determining costs, I do not accept an award based on that much time is warranted by the actual preparation involved in presenting Mr Taylor's case, as evident in the papers before the Authority and during the investigation meeting.

[9] **UNSL is ordered to pay to Mr Taylor the amount of \$2000 as a modest and reasonable contribution to his costs and an additional \$70 in reimbursement of the filing fee.**

Robin Arthur
Member of the Employment Relations Authority