

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN David John Thompson (Applicant)
AND Ann & Karsten Kristensen (Respondents)
REPRESENTATIVES For the Applicant - Bill Nabney,
For the Respondents - John Peebles,
MEMBER OF AUTHORITY Ken Anderson
DATE OF DETERMINATION 9 May 2005

DETERMINATION OF THE AUTHORITY AS TO COSTS

- [1] The outcome of the determination of the substantive matter (AA 326/04) was that Mr Thompson was awarded a total gross sum of \$865.72 consisting of outstanding wages and holiday pay owing to him.
Mr Thompson was unsuccessful in regard to his claim that he was unjustifiably dismissed.
- [2] The parties were invited to resolve the matter of costs but were unable to do so. Costs submissions have been received from both parties and considered. The Authority was under the impression that there may have remained some unfinished business between the parties, and that they may wish to return to the Authority for further assistance. However, it appears that no further involvement of the Authority regarding the substantive matter is required.
- [3] Mr Thompson was in receipt of legal aid.
- [4] The Respondents point to the fact that Mr Thompson was largely unsuccessful with his claims and that the wage arrears issue took only a small portion of the total time spent in the investigation meeting. The Respondents seek a "considerable contribution" towards their costs, being the sum of \$2,250.
- [5] The Applicant seeks an award of costs of the sum of \$500. His liability to the Legal Services Agency is of the sum of \$2,220.
- [6] I feel obliged to say that this matter should never have appeared before the Authority for determination. Mr Thompson's claim of unjustified dismissal was without any merit at all and had the same substance as his alleged belief in witchcraft and that his cows were cursed. One cannot help but reach the conclusion that Mr Thompson was quite happy to play lotto using taxpayer funds.
- [7] Balanced against that, the sums due to Mr Thompson were acknowledged by the Respondents as owing and should have been paid without litigation being required.

[8] Given the conduct of both parties, it is appropriate that costs should lie where they fall. It is so ordered.

Ken Anderson
Member
Employment Relations Authority