

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH OFFICE**

BETWEEN Hamish Timmins (Applicant)
AND Aratuna Freighters Limited (Respondent)
REPRESENTATIVES Steven Zindel, Counsel for Applicant
Andrew Havill, Advocate for Respondent
MEMBER OF AUTHORITY Helen Doyle
SUBMISSIONS RECEIVED 15 March 2006 from the applicant
None from the respondent
DATE OF DETERMINATION 26 April 2006

DETERMINATION OF THE AUTHORITY

[1] In my determination dated 21 February 2006 I found that the applicant had a personal grievance that he was unjustifiably dismissed and I awarded him remedies.

[2] I reserved the issue of costs.

[3] On 15 March 2006 I received submissions as to costs from the applicant's solicitors. These were copied to the respondent company.

[4] No submissions were received from the respondent. A support officer contacted the respondent on 18 April 2006 advising that any submissions from the respondent as to costs should be lodged with the Authority and served by the close of business on Friday 22 April. No submissions were received and I proceed to determine costs on the basis of the applicant's submissions.

[5] The applicant is legally aided and his total maximum grant of legal aid was \$5245.00 including costs and disbursements. The applicant seeks \$4000.00 costs from the respondent which is 76% of legal aid costs.

[6] Although the applicant is legally aided he will in all likelihood be required to repay the legal aid grant in full.

Determination

[7] The unique nature and role of the Authority was recognised by the full Court of the Employment Court in *PBO Limited (formerly Rush Security Limited) v Da Cruz* (unreported) 9 December 2005 AC 2A/05.

[8] There was reference within that judgment to the fact that the majority of costs awards in the Authority fall within the range \$2000.00 to 2,499.00 for a one day investigation meeting although there may be factors which require adjustment to that amount.

[9] There were some legal complexities in this matter concerned largely with remedies. It was able though to be comfortably investigated within a day. It was a very important case to both parties. There were attempts to resolve the matter before the investigation meeting.

[10] Both parties contributed to the investigation meeting in a constructive way despite the very firm and quite different positions they took with respect to the evidence. There was no conduct that unnecessarily increased the time to investigate the matter.

[11] In all the circumstances I am of the view that a suitable starting point for an award of costs is \$2500.00. The starting point is slightly higher because of the complexities with respect to remedies in this case which had to be addressed in evidence and submissions.

[12] I am not persuaded that there are any matters that require adjustment to that amount.

[13] I order Aratuna Freighters Limited to pay to Hamish Timmins the sum of \$2500 costs.

Helen Doyle
Member of Employment Relations Authority