

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Liane Marie Webb (Applicant)

AND Accidento Limited (First Respondent)
AND Adam Robertson (Second Respondent)

REPRESENTATIVES Adriana Pinnock, Counsel for Applicant
Anna Fitzgibbon, Counsel for Respondent

MEMBER OF AUTHORITY Leon Robinson

CONSIDERATION OF PAPERS 3 August 2005

DATE OF DETERMINATION 4 August 2005

DETERMINATION OF THE AUTHORITY AS TO COSTS

[1] The applicant Ms Liane Webb (“Ms Webb”) asks the Authority to exercise its discretion in her favour following her election not to proceed with an application for a compliance order.

[2] Ms Webb and the respondents negotiated a settlement of the substantive differences between them by a written agreement (“the agreement”). The respondents subsequently alleged Ms Webb breached the terms of the agreement and declared they were no longer bound to its performance. Ms Webb denied any breach and then lodged with the Authority an application seeking compliance with the terms of the agreement. The respondents eventually recanted and by their Counsel affirmed their intention to honour the agreement. Ms Webb however, now seeks an award of costs in respect of her application for compliance.

[3] Ms Pinnock advises Ms Webb’s actual costs in respect of the application for compliance are \$1,640.00 (8.2 hours @ \$200.00 per hour). Those costs are more than just drafting the statement of problem in the application. They include attendances on Ms Webb, correspondence with Ms Fitzgibbon, correspondence with the Authority, and all incidental attendances. I am satisfied of the veracity of those costs.

[4] I agree that Ms Webb incurred those costs entirely as a result of the respondents’ repudiation. I understand the respondents acted consistent with their view that Ms Webb had herself breached the agreement but I am not required to resolve that contest here. It is clear however, the respondents were not in a position to substantiate their allegations against Ms Webb.

[5] I am satisfied that the position the respondents’ found themselves ought not to have cost consequences for Ms Webb. I consider it appropriate to address this situation by exercising my discretion in her favour. She shall have an award of costs, but on a contribution basis.

[6] I am mindful that this matter did not proceed to an investigation meeting. I am mindful too of the modest quantum of costs awards in the Authority according to its investigatory approach.

[7] Exercising my discretion on a principled basis, **I order Accidento Limited and Adam Robertson to pay to Liane Marie Webb the sum of \$500.00 as a contribution to costs.**

Leon Robinson
Member of Employment Relations Authority