

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON OFFICE**

BETWEEN Grant White (Applicant)
AND Heinz Watties (NZ) Limited (Respondent)
REPRESENTATIVES Jills Angus Burney for the Applicant
Gary Tayler for the Respondent
MEMBER OF AUTHORITY P R Stapp
SUBMISSIONS IN WRITING 21 October and 14 & 22 November 2005
DATE OF DETERMINATION 30 November 2005

COSTS DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] Costs were reserved on 9 September 2005 by the Authority. The parties have not been able to reach agreement. The union on behalf of the applicant submits that a reasonable sum for the applicant to pay would be a \$1,500 contribution to the employer's costs. The invoiced costs for the respondent were \$12,285 and of this a claim has been made for \$6,000 contribution from the applicant.

[2] Clearly costs follow the event as a matter of principle. The respondent successfully defended the claims made against it. The respondent engaged the services of a representative to assist in the management of the process of the investigation and meet the timeframes put in place prior to the investigation meeting. The respondent's representative also attended the investigation meeting.

[3] Some of the preparation was completed by the respondent in-house, including Dave Robb providing some partial advocacy at the Authority's investigation meeting. The executive time involved should not be recoverable because the preparation would be included in the role of the human resources and line management involved. I have to recognise this in this matter. Indeed I do not want to discourage the involvement of in-house personnel in Authority investigations. Any other representation is a matter of choice, knowing that full costs will not be recoverable unless

there are exceptional circumstances and that a range of awards exist to contribute towards a successful party's costs.

[4] There was nothing unusual about the preparation and the documents produced in advance to be used at the Authority's investigation meeting. I am satisfied that efforts were made to try and settle the matter including using mediation. A late withdrawal of the remedy for reinstatement did not save any costs because the investigation continued. The investigation was for one day. It was assisted by the representatives.

[5] My assessment of reasonable costs excluding executive time involved amounts to \$3,600 for preparation and attendance of a representative. Therefore, Grant White is to pay two thirds of this sum to Heinz Watties Limited; being the sum of \$2,400 contribution towards its costs.

P R Stapp
Member of the Authority