

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**AA 10A/10
5143893**

BETWEEN MATS WICKBOM
 Applicant

AND DRH (NORTHLAND)
 LIMITED
 Respondent

Member of Authority: R A Monaghan

Memoranda received 24 February 2010 from applicant
 12 February 2010 from respondent

Determination: 01 March 2010

COSTS DETERMINATION OF THE AUTHORITY

[1] In a determination dated 15 January 2010 I found Mats Wickbom and DRH (Northland) Limited (DRH) were not in an employment relationship. Costs were reserved.

[2] Mr Midlane sought a contribution to DRH's costs in the sum of \$5,000, citing total costs a little in excess of \$10,000. He noted that while he did not attend the investigation meeting he was otherwise extensively engaged in advising and attending on his client, assisting with the preparation of statements of evidence and preparing submissions. I accept that counsel acted as he said he did in respect of Mr Wickbom's employment relationship problem, but it is unclear whether and to what extent one of his invoices included work done in respect of Mrs Wickbom's company.

[3] In support of the request for a contribution to costs Mr Midlane detailed the parties' efforts to settle. Overall I consider it common ground that settlement was prevented to a reasonably significant extent by an inability to agree on indemnities in

respect of tax-related matters. It is unfortunate that settlement was not achieved, especially as it appears the parties came relatively close to settling. However in the circumstances, and because I doubt that I have full details of any tax issues that prevented settlement, I do not visit the failure to settle on any party in a costs setting.

[4] Ms Taurau suggested a contribution to DRH's costs in the sum of \$500 would be reasonable bearing in mind the Authority's usual approach to costs, that the investigation meeting took half a day, and that Mr Wickbom remains without employment.

[5] Further to the last of these Ms Taurau said Mr Wickbom is in receipt of a benefit of a benefit from WINZ, and that she has been advised Mr Wickbom is required to sell the family home to release funds for the maintenance of his family. Being required to sell a family home is not a circumstance to be wished on anyone, but I am unaware of matters such as the amount of capital expected to be released by such a sale or whether a sale process has been initiated. In a costs setting I am not satisfied that the relevant criterion of ability to pay means I should discount any amount I would otherwise have awarded.

[6] I therefore determine the matter with reference to a notional daily rate often applied in the Authority, and find no reason to depart from it.

[7] For these reasons Mr Wickbom is ordered to contribute the DRH's costs in the sum of \$1,000.

R A Monaghan

Member of the Employment Relations Authority