



increases costs can necessarily be taken into account, the Authority can consider whether all or any of the party's costs were unnecessary or unreasonable and that awards will generally be modest.

[4] In the present case Mr Young succeeded with establishing an unjustifiable dismissal but it was essentially a pyrrhic victory because compensation was reduced to zero as a result of his contribution. To summarise what happened Mr Young was dismissed without ceremony after he pushed his manager and held him against a wall. I do not accept that in these circumstances Mr Young can be treated as the successful party in this litigation. It follows that he would not be entitled to an award of costs even if he was claiming costs. That presumably explains why he has not made a claim for costs himself.

[5] I find that the respondent has a stronger argument that it was the successful party. It defended itself against Mr Young's claims about unjustifiable disadvantage and discrimination and established that the claim for compensation for the unjustified dismissal was without merit.

[6] There is a second reason in support of Rooney's claim for costs. Mr Young caused unnecessary costs because of the convoluted statement of problem and multiple overlapping claims for money. There was much evidence that was irrelevant. The investigation meeting lasted a whole day when a proper focus limited to the brief incident that preceded the dismissal could have been dealt with in less than half a day.

[7] Often costs in the Authority are assessed on a daily tariff basis, commonly around \$3,000 per hearing day. In this case it is appropriate to order Mr Young to pay \$3,000 in costs to Rooney Earthmoving Limited to recognise the time wasted because of Mr Young's lack of focus and Rooney's substantial success.

[8] Mr Young is to pay Rooney Earthmoving Limited \$3,000 by way of costs.

Philip Cheyne  
Member of the Employment Relations Authority