

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2019] NZERA 434
3060132

BETWEEN

SHUN ZHOU
Applicant

A N D

UNLIMITED AIRSOFT CLUB
LIMITED
Respondent

Member of Authority: Peter van Keulen

Investigation Meeting: On the papers

Date of Determination: 22 July 2019

COSTS DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] In her statement of problem, Shun Zhou sought compliance with a deed of release between herself and Unlimited Airsoft Club Limited, dated 30 March 2019. This was because Unlimited Airsoft had not paid the compensatory sum due to her under the deed of release; Unlimited Airsoft had paid the wage arrears due to her under the deed.

[2] After the statement of problem was served on Unlimited Airsoft, it paid the compensatory amount outstanding under the deed of release to Ms Zhou. This meant that the compliance sought by Ms Zhou was no longer required.

[3] The issue that remains is the payment of costs. Ms Zhou seeks reimbursement of \$71.56, the cost of filing the statement of problem, from Unlimited Airsoft.

[4] In order to resolve this I sent a minute to Unlimited Airsoft asking it to advise me if it would pay the filing fee. If it would pay the filing fee then I asked Unlimited Airsoft to do so and send confirmation of this to me. If it would not pay the filing fee then I asked Unlimited Airsoft to advise me of this and set out why it should not have to pay the amount requested.

[5] Unlimited Airsoft has not paid the filing fee to Ms Zhou and it responded to my minute stating that there was a delay in making the compensatory payment as the bank failed to make the payment. Unlimited Airsoft says it has now paid the compensatory sum and it should not have to pay the filing fee.

[6] The basic principle in the Authority is that costs follow the event. If an applicant is successful in obtaining the orders it seeks then the starting point is that the applicant is entitled to a contribution to her/his costs.

[7] It does not matter that Ms Zhou was successful in achieving what she applied for without the need for an investigation meeting. Nor do I accept that Unlimited Airsoft's explanation for the failure to pay the compensatory means Ms Zhou is not entitled to her costs.

[8] Unlimited Airsoft failed to make the compensatory payment under the deed of release. Ms Zhou sought compliance as a result and succeeded in obtaining compliance with the deed of release because of lodging her statement of problem, so she is entitled to her costs for lodging that statement of problem. In this case, that is the filing fee.

[9] Unlimited Airsoft must pay Ms Zhou \$71.56, within 14 days of this determination, for the cost of lodging her application.

Peter van Keulen
Member of the Employment Relations Authority