

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2011] NZERA Auckland 345
5329612

BETWEEN

MELANIE ZINK
Applicant

AND

WWW MEDIA LIMITED
Respondent

Member of Authority: Rachel Larmer

Representatives: David Hayes, Counsel for Applicant
Mark Hammond, Counsel for Respondent

Investigation meeting: On the papers

Submissions Received 27 July 2011 from Respondent
28 July 2011 from Applicant

Further information: 29 July 2011 from Respondent
29 July 2011 from Applicant

Determination: 2 August 2011

COSTS DETERMINATION OF THE AUTHORITY

A Melanie Zink is ordered to pay www Media Limited \$1,200 towards its legal costs.

[1] Ms Zink's claim was heard at the same time as her fiance's claim.¹ The investigation of both matters took one day. Ms Zink's claim took up approximately 40% of the investigation time with Mr Polzleitner's claim taking up 60% of the investigation time.

[2] Both claims were dismissed for lack of jurisdiction, because the Authority concluded neither Ms Zink nor Mr Polzleitner had been employed by www Media Limited.

¹ *Martin Polzleitner v www Media Limited* [2011] NZERA 310

[3] As the successful party *www Media Limited* is entitled to a contribution towards its actual legal costs. The parties were encouraged to resolve costs by agreement, but that has not been possible. In accordance with paragraph 38 of the Authority's substantive determination², the respondent now seeks a costs order against Ms Zink.

[4] The Authority has a wide costs discretion which must be exercised in a principled manner.³ The leading case on costs in the Authority is the Employment Court's decision in *PBO Limited (formerly Rush Security Limited) v Da Cruz*.⁴ Those principles are so well known I do not need to set them out.

[5] The respondent sought costs of \$7,000 against Ms Zink. Ms Zink submitted an award of between \$800-\$1,200 would be appropriate.

[6] I consider this matter was a straightforward one, which did not involve complex facts or novel legal issues. There are no features of this case which would warrant a departure from the Authority's usual tariff based approach. I have therefore adopted \$3,000 as a notional daily tariff. I do not consider there are any factors which warrant increasing or decreasing the notional daily tariff.

[7] The investigation of this matter involved just under half a day, so I consider \$1,200 is an appropriate contribution towards the respondent's costs.

[8] Accordingly, Ms Zink is ordered to pay *www Media Limited* \$1,200 towards its actual legal costs.

Rachel Larmer
Member of the Employment Relations Authority

² *Melanie Zink v www Media Limited* [2011] NZERA Auckland 311

³ Clause 15, Schedule 2 ERA 2000

⁴ [2005] 1 ERNZ 808