

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

CA 30/10
5126618

BETWEEN A
 Applicant

AND B LIMITED
 Respondent

Member of Authority: Helen Doyle

Representatives: Jenny Beck, Counsel for Applicant
 Eleanor Robinson, Advocate for Respondent

Submissions Received: 23 December 2009 for Applicant
 20 January 2010 for Respondent

Determination: 11 February 2010

COSTS DETERMINATION OF THE AUTHORITY

Prohibition of publication

[1] The prohibition of publication order made in my determination dated 20 November 2009 remains in place for the purposes of this determination.

[2] In my determination dated 20 November 2009, I found that the applicant had been unjustifiably dismissed from her position with the respondent and made awards to her for lost wages and compensation.

[3] I reserved the issue of costs and submissions have now been received from Ms Beck on behalf of the applicant and Ms Robinson on behalf of the respondent.

[4] Ms Beck attached to her submissions on behalf the applicant copies of the invoices which set out the costs the applicant has incurred as a result of these proceedings. For part of the proceedings, the earlier part including mediation, the applicant was legally aided. Eligibility for that obviously ended at a point in time when the applicant obtained further employment and the applicant was then invoiced in the usual way for the work performed by Ms Beck's firm.

[5] Ms Beck submits that the applicant should be fully reimbursed for her costs incurred in the amount of \$6,296.73. I had a support officer follow up with Ms Beck's office to confirm with respect to the legal aid invoices what amount the applicant had been required to reimburse the Legal Services Agency. I was advised that the applicant was not required to reimburse the Legal Services Agency in terms of those invoices so from the \$6,296.73 I deduct the sum of \$1,733.20 to arrive at a figure of \$4,563.53 being the costs incurred by the applicant.

[6] That also deals with the issue of mediation which was referred to in Ms Beck's submissions as a matter for which costs should be awarded.

[7] Ms Robinson refers to the Full Court decision in *PBO Ltd v. Da Cruz* [2005] 1 ERNZ 808 which is the leading decision on costs in the Authority. It is appropriate, and I go on to apply the principles, set out in *PBO* in exercising my discretion as to costs.

Determination

[8] The costs incurred by the applicant for a case of this nature I find were reasonably incurred. This was a difficult case because of the subject matter and it was very important to both parties. The investigation meeting was able to be completed within one quite long day. I do not find that an award of full costs is called for.

[9] In the circumstances, I find it appropriate to start with a daily tariff which reflects the nature of the case and preparation required and I set that at \$3,500 and I then make an adjustment upward to reflect the additional time required for submissions for costs. In all the circumstances of this case, I am of the view that a fair award for costs would be the sum of \$3,650 and I also consider it would be fair to separate out the disbursements that the applicant was charged for photocopying and telephone calls in the sum of \$74.60.

[10] I order B Limited to pay to A the sum of \$3,650 being costs together with disbursements in the sum of \$74.60.

Helen Doyle
Member of the Employment Relations Authority

