



Employment Court of New Zealand

You are here: [NZLII](#) >> [Databases](#) >> [Employment Court of New Zealand](#) >> [2015](#) >> [\[2015\] NZEmpC 175](#)

[Database Search](#) | [Name Search](#) | [Recent Decisions](#) | [Noteup](#) | [LawCite](#) | [Download](#) | [Help](#)

Able Owl XL Limited v Gladden [2015] NZEmpC 175 (5 October 2015)

Last Updated: 12 October 2015

IN THE EMPLOYMENT COURT AUCKLAND

[\[2015\] NZEmpC 175](#)

EMPC 217/2014

IN THE MATTER OF a challenge to a determination
 of the
 Employment Relations
 Authority

AND IN THE MATTER of an application for costs

BETWEEN ABLE OWL XL LIMITED Plaintiff

AND NEIL GLADDEN Defendant

Hearing: By costs memoranda filed on 30 September and 2 October
 2015

Appearances: E Burke, counsel for plaintiff
 N Gladden, defendant in person

Judgment: 5 October 2015

COSTS JUDGMENT OF JUDGE M E PERKINS

[1] In a decision dated 24 September 2015¹ the plaintiff's challenge to determinations of the Employment Relations Authority (the Authority), dated 7 August 2014 and 29 August 2014, was dismissed.²

[2] The hearing of the challenge was on a de novo basis and while Mr Gladden had the remedies he had obtained in the determinations reduced, part of his claim to commission was upheld along with the order for costs he had obtained from the Authority.

¹ *Able Owl XL Ltd v Gladden* [\[2015\] NZEmpC 166](#).

² *Gladden v Able Owl XL Ltd* [2014] NZERA Auckland 329 (substantive); *Gladden v Able Owl XL Ltd* [2014] NZERA Auckland 358 (costs).

ABLE OWL XL LIMITED v NEIL GLADDEN NZEmpC AUCKLAND [\[2015\] NZEmpC 175](#) [5 October 2015]

[3] While Mr Gladden was represented by an advocate before the Authority, he chose to represent himself in respect of the challenge. Accordingly, he was not entitled to any costs in respect of the proceedings in the Court, but any claim which he wished to make for reimbursements of disbursements incurred by him was reserved.

[4] Mr Gladden was directed to file a memorandum setting out such disbursements if he wished to make a claim and he has now done so. In that memorandum he not only claims disbursements but also the sum of \$1,490.40 for legal costs, which he claims to have incurred with his advocate during the period when the plaintiff's challenge has proceeded to conclusion. No proper breakdown of the costs incurred has been provided. On the basis of the brief narrative included in Mr Gladden's memorandum, it would appear that part of the costs incurred relate in any event to the proceedings before the Employment Relations Authority.

[5] Right from the outset of Mr Gladden's involvement in the challenge by the plaintiff Mr Gladden has represented himself; and the advocate's costs that he has claimed cannot be allowable as true litigation costs.

[6] Ms Burke, on behalf of the plaintiff, has objected to any allowance being given for the advocate's costs and this objection is upheld. Ms Burke also objects to Mr Gladden's claim for mileage to attend a Judicial Settlement Conference in Auckland which she submits was not ordered by the Court.

[7] The disbursements which Mr Gladden claims amount in total to \$395.30. His claims are in respect of travelling expenses in travelling from Auckland to Hamilton (return) for the Judicial Settlement Conference and an interlocutory hearing initiated by the plaintiff. In addition there is a claim for parking, postage, photocopying and scanning. These disbursements appear to be reasonable and I do not uphold the objection to Mr Gladden being reimbursed for having to travel to Auckland for the Judicial Settlement Conference.

[8] Accordingly, in addition to the remedies already awarded to Mr Gladden in the earlier judgment, there is an order that the plaintiff reimburse him for his disbursements amounting to \$395.30.

M E Perkins

Judge

Judgment signed at 3.30 pm on 5 October 2015

NZLII: [Copyright Policy](#) | [Disclaimers](#) | [Privacy Policy](#) | [Feedback](#)

URL: <http://www.nzlii.org/nz/cases/NZEmpC/2015/175.html>