

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2012] NZERA Auckland 349
5361404

BETWEEN STEPHEN DENIS BAILEY
Applicant

AND NEIL WARNER
Respondent

Member of Authority: K J Anderson
Representatives: K McLuskie, Counsel for Applicant
 N Warner, In person
Submissions Received: 30 August 2012 for the Applicant
 Nil for the Respondent
Date of Determination: 8 October 2012

COSTS DETERMINATION OF THE AUTHORITY

[1] In a determination issued on 27 August 2012,¹ orders were made in favour of Mr Bailey and he now claims costs in the sum of \$1,750.00; the equivalent of the tariff generally applied by the Authority for half a day of hearing time. The invoices provided show that Mr Bailey has incurred legal costs of \$2,389.70 and I accept that the sum sought is reasonable in the circumstances.

[2] While the substantive matter was determined on the papers, it is clear that if Mr Warner had made some effort to make even some minimal payments to Mr Bailey, perhaps on an agreed schedule basis; legal representation and the associated costs for Mr Bailey, may not have been necessary at all

¹ [2012] NZERA Auckland 288

[3] Nonetheless, I am also cognisant of the fact that the reason for Mr Bailey not being paid the monies due to him (and acknowledged) is that Mr Warner and/or Meat Industry Training and Employment Limited, have not been in a financial position to make payment. Unfortunately, Mr Warner has not provided any submissions on costs or any tangible evidence of the current state of his economic circumstances, but given past discussions with him, I am bound to accept that he has been candid about his circumstances.

[4] Taking into account the overall (and unfortunate) history and general circumstances pertaining to this matter, I conclude that it is only appropriate to award a minimal sum in regard to costs. Indeed, if what Mr Warner has said previously about his financial position is proven to be so, it may be difficult for Mr Bailey to achieve satisfaction in regard to the payments already due to him.

Determination

[5] I conclude that it is appropriate that Mr Warner should contribute to the costs incurred by Mr Bailey to the total sum of \$1,000.00. It is so ordered.

K J Anderson
Member of the Employment Relations Authority