

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Mr Peter Bell
AND Board of Trustees, Cambridge High School
REPRESENTATIVES Mr Bell in person
Mr Paul Robertson for the respondent
MEMBER OF AUTHORITY Vicki Campbell
DATE OF DETERMINATION 23 May 2007

DETERMINATION OF THE AUTHORITY ON COSTS

[1] In a determination dated 14 March 2007 I found that Mr Bell had been unjustifiably dismissed from his position as Groundskeeper for the respondent. When considering remedies, I took into account Mr Bell's contribution which I assessed as being significantly blameworthy.

[2] Even though Mr Bell was not represented at the investigation meeting, he had indicated at the investigation meeting that he had sought legal advice in relation to his employment relationship problem and therefore, I reserved the question of costs and invited the parties to resolve the matter between them. They have been unable to do so and I am now in receipt of memorandum from both parties.

[3] There is nothing in this case to derogate from the principle that costs follow the event and that the successful applicant should receive a contribution to reasonably incurred costs. I have considered the submissions made by the parties and I am satisfied that the discretion under clause 15 of Schedule 2 of the Act ought to be exercised in favour of Mr Bell.

[4] Mr Bell seeks a payment of \$1993.75 being legal costs he incurred prior to the investigation meeting. Mr Robertson submits that the costs being sought by Mr Bell relate to preparation for and attendance at mediation and do not relate to the preparation for and attendance at the Authority's investigation meeting and it is therefore not appropriate to make an award for costs (*Eniata v Amcor Packaging (NZ) Ltd*, unreported, AC19A/02, Colgan J, 24 May 2002).

[5] Mr Bell filed his statement of problem on 20 November 2006. He had previously attended mediation on 25 October 2006 where he was represented by experienced counsel.

The invoice provided to the Authority by Mr Bell states that the costs are in relation to meeting with Mr Bell, receiving his initial instructions, correspondence with the Board and mediation services, and attendance at mediation.

[6] I accept Mr Robertson's submission that the costs sought by Mr Bell relate to mediation only and not to the Authority's investigation meeting. I am satisfied mediation was undertaken prior to this matter being properly before the Authority. In that case I am unable to order a contribution to those costs. Mr Bell is, however, entitled to receive reimbursement of his filing fee of \$70.00.

[7] An order is made accordingly.

Vicki Campbell
Member of Employment Relations Authority