

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 369A/08
5103101

BETWEEN PETER BLAKE
 Applicant

AND SENATE NURSING BUREAU
 LIMITED
 Respondent

Member of Authority: Robin Arthur

Representatives: James Turner for Applicant
 Hilary Robinson for Respondent

Submissions received: 10 November and 17 November 2008 from Applicant
 12 November 2008 from Respondent

Determination: 26 November 2008

COSTS DETERMINATION OF THE AUTHORITY

[1] By determination AA369/08 (28 October 2008) Peter Blake was awarded \$6000 compensation for hurt and humiliation resulting from inadequate consultation over the termination of his employment for redundancy. Counterclaims made by Senate Nursing Bureau Limited over fuel expenses and allegedly overpaid wages were dismissed. The determination also recorded an undertaking by Senate to remedy a shortfall of one week's wages in Mr Blake's final pay.

[2] The parties were encouraged to resolve any issue of costs between themselves but have been unable to do so. Mr Blake has applied for a determination of costs by the Authority and seeks a "*substantial contribution*" to his actual legal costs totalling \$4570 including GST and disbursements.

[3] After considering the parties' memoranda on costs and applying the principles

outlined in *PBO Ltd v Da Cruz* [2005] 1 ERNZ 808 I consider an award of \$3000 should be made as a reasonable contribution by Senate to Mr Blake's reasonably incurred costs. I have taken total actual costs incurred – based on copies of his counsel's invoices supplied on the Authority's request – to total \$4000 as costs related to attendance at mediation are not recoverable in a costs award from the Authority.

[4] I have applied a notional daily rate of \$2000 which would be appropriate for bringing his personal grievance relating to his redundancy, with a relatively low level of preparation as Mr Blake's case required no witnesses other than himself. However I have increased that notional rate by \$1000 to allow a reasonable contribution to additional costs incurred in responding to Senate's counterclaims. The company was completely unsuccessful in its counterclaims and additional costs awarded to Mr Blake follow that 'event'.

[5] Senate is ordered to pay Mr Blake \$3000 as a reasonable contribution to his costs in this matter.

[6] I record from Senate's memorandum regarding costs that the company accepts it also owes Mr Blake one week's wages and, "as a matter of good faith" will pay \$389.12 for outstanding holiday pay.

Robin Arthur
Member of the Employment Relations Authority