



# New Zealand Employment Relations Authority Decisions

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## Bray v James Scott Construction Limited (Christchurch) [2016] NZERA 609; [2016] NZERA Christchurch 217 (8 December 2016)

Last Updated: 12 January 2017

### IN THE EMPLOYMENT RELATIONS AUTHORITY CHRISTCHURCH

[2016] NZERA Christchurch 217  
5587585

BETWEEN PAUL WILLIAM BRAY Applicant

A N D JAMES SCOTT CONSTRUCTION LIMITED Respondent

Member of Authority: Helen Doyle

Representatives: Michael McDonald, Advocate for Applicant

Tara Smith, Advocate for Respondent

Submissions Received: 13 October 2016, from the Applicant

No submissions from the Respondent

Date of Determination: 8 December 2016

### COSTS DETERMINATION OF THE AUTHORITY

**A. I order James Scott Construction Limited to pay to Paul William Bray the sum of \$2,250 being costs together with \$71.56 being disbursements.**

### The substantive determination

[1] The Authority in its determination dated 23 September 2016<sup>1</sup> found the applicant's grievance that he was unjustifiably dismissed from the respondent's employment made out and made orders for reimbursement of lost wages and payment of compensation. The Authority reserved the issue of costs in the determination and

failing agreement set a timetable for submissions to be lodged and served.

1 [2016] NZERA Christchurch 169

### The application for costs

[2] The Authority has received submissions as to costs from the applicant in accordance with that timetable but the respondent has failed to lodge and serve any submissions in reply within the timeframe set in the determination. The Authority therefore has proceeded to determine the issue of costs.

### Applicant's submissions

[3] The applicant seeks an award in accordance with the daily tariff that was applicable at the time of the investigation of \$3,500 per day. Mr McDonald, sets out in his submission that the actual costs for the applicant were \$7,475 inclusive of GST. He submits that there are no factors that should result in an increase or decrease in the costs award in the particular circumstances of this matter.

## Determination

[4] Mr McDonald in his submissions refers to the matter taking a full day but I have returned to my Minute book which sets out that in fact the meeting commenced at 9.30 am and concluded at 12.45 pm. The meeting, therefore, only occupied approximately half of the usual hearing time of six hours per day.

[5] I therefore start consideration of costs at half of the usual daily tariff, being

\$1,750. I do acknowledge that the applicant lodged submissions following the investigation, largely as a result of some material evidence that came to light during the investigation meeting and was not evident from the written statements of evidence.

[6] The matter was not complicated and the law in the area is reasonably settled. There was no conduct on the part of either party that increased costs. I consider it fair to increase the daily tariff by a further \$500 in this matter to reflect the preparation of submissions which if dealt with on the day would have added to the hearing time.

[7] In all the circumstances, a fair and reasonable award is \$2,250 together with the filing fee of \$71.56.

[8] I order James Scott Construction Limited to pay to Paul William Bray the sum of \$2,250 being costs together with the filing fee of \$71.56

Helen Doyle

Member of the Employment Relations Authority

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