

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

[2013] NZERA Christchurch 169
5394486

BETWEEN

PAUL BRIGGS
Applicant

A N D

GOSCUT CONCRETE
CUTTER LIMITED
Respondent

Member of Authority: Helen Doyle

Submissions Received: 24 July 2013 from Applicant
No submissions from Respondent

Date of Determination: 16 August 2013

COSTS DETERMINATION OF THE AUTHORITY

A. I have ordered Goscut Concrete Cutter Limited to pay to Paul Briggs the sum of \$1,750 being costs together with the sum of \$71.56 being the filing fee.

[1] In the Authority's determination dated 10 July 2013 it found that the applicant was unjustifiably dismissed from his employment and made orders for reimbursement of lost wages and payment of compensation. There was also an order that an amount deducted from the applicant's final pay was in breach of s.4 of the Wages Protection Act 1983 and there was an order for repayment.

[2] Costs were reserved and a timetable set for an exchange of submissions. The Authority received cost submissions from Ms Rooney on 24 July 2013 in accordance with the timetable. The respondent had until 7 August 2013 to lodge and serve submissions in response, but none have been received. In those circumstances, the Authority intends to proceed to determine costs.

The applicant's submissions

[3] Ms Rooney refers to the leading judgment for costs in the Authority of *PBO Ltd (formerly Rush Security Ltd) v. de Cruz* [2005] ERNZ 808.

[4] She acknowledges the Authority has a discretion as to whether costs are awarded and, if so, in what amounts. Ms Rooney submits actual costs incurred for preparation for and attendance at the Employment Relations hearing is \$1,840. Ms Rooney attached an invoice sent to Mr Briggs.

[5] Ms Rooney submits that the Authority's tariff base approach is appropriate in the circumstances and seeks an award of \$1,750 together with the cost of filing the application of \$71.56. This is in light of the fact that the investigation meeting occupied approximately half a day. The usual daily tariff is \$3,500.

[6] In all the circumstances, I accept Ms Rooney's submission that there should be an award of costs based on the daily tariff adjusted to reflect that a full day's hearing was not required, in the sum of \$1,750. I also find that the applicant is entitled to be reimbursed for his filing fee.

[7] I order Goscut Concrete Cutter Limited to pay to Paul Briggs the sum of \$1,750 being costs together with \$71.56 being reimbursement of a filing fee.

Helen Doyle
Member of the Employment Relations Authority