

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

CA 188/08
5113480

BETWEEN WAYNE BRIGHT
 Applicant

AND N D DAIRIES LIMITED
 Respondent

Member of Authority: Philip Cheyne

Representatives: No appearance by the Applicant
 David Gray, Counsel for Respondent

Investigation meeting: 11 December 2008 at Gore

Determination: 11 December 2008

DETERMINATION OF THE AUTHORITY

[1] Wayne Bright lodged his statement of problem on 3 March 2008 claiming unjustifiable dismissal. ND Dairies in reply said that Mr Bright was not dismissed. The parties were referred to mediation by agreement but that did not resolve the matter. There followed a phone conference in October 2008 and arrangements were made an investigation meeting. Directions and the notice of investigation meeting were then served on Mr Bright at his address for service.

[2] Mr Bright did not attend the investigation meeting. That was not a surprise since his counsel sought and was given leave to withdraw in early November, Mr Bright did not respond to the Authority's attempts to contact him to clarify his intentions and he failed to comply with the Authority's timetable for statements of evidence by 1 December 2008. Accordingly Mr Bright's claim fails and his problem is dismissed.

[3] Counsel for the respondent company seeks costs. I am told that legal fees to date are around \$3,000.00. That must include time for mediation since the only steps required in these proceedings were the commendably succinct statement in reply, participation in one straight forward phone conference and a brief appearance. I accept that some work may have been done preparing witness statements before the Authority told counsel that the statements were no longer required.

[4] Mr Bright was entitled to lodge his statement of problem but he has caused unnecessary costs to the respondent by abandoning his claim late in the piece without formally withdrawing it. I order him to pay \$1,000.00 as a contribution to the legal costs incurred by the respondent.

Philip Cheyne
Member of the Employment Relations Authority