

*Under the Employment Relations Act 2000*

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON OFFICE**

**BETWEEN** Darryl Vincent Buckley (Applicant)  
**AND** Nimon and Sons Limited (Respondent)  
**REPRESENTATIVES** D Kennedy for Applicant  
E Brown for Respondent  
**MEMBER OF AUTHORITY** G J Wood  
**SUBMISSIONS RECEIVED** 10 May 2006  
**DATE OF DETERMINATION** 18 May 2006

**COSTS DETERMINATION OF THE AUTHORITY**

1. In my substantive determination I found that Mr Buckley was unjustifiably constructively dismissed and ordered the respondent (“Nimons”) to pay him \$10,000 compensation and \$24,956.72 in lost remuneration.
2. Ms Kennedy now seeks a costs contribution to the applicant’s costs, which totalled \$8,575.87 plus disbursements of \$586. She noted the success of the applicant, the fact that representation at mediation was required, that the applicant had to prepare a lot of the documentation and that a witness had to travel from Dunedin to Napier for the investigation meeting.
3. In response, Ms Brown correctly noted that the case of *PBO Ltd (formerly Ross Security Ltd) v. Da Cruz* unreported, Colgan CJ, Travis and Shaw JJ, AC2A/05, 9 December 2005, had recently held that the Authority was entitled to take a different approach to costs than the Employment Court. She objected to any claim for mediation costs and noted that Nimons bore the cost of collating the bundle of documents. She also submitted that Mr Buckley’s witness who had to travel from Dunedin did not contribute to the investigation and was not required by Nimons to

attend. In conclusion, Nimons submitted that a reasonable contribution to Mr Buckley's costs would be \$2,000, plus disbursements, excepting the disputed air fare.

4. This was a relatively straightforward investigation which took one day to complete. I do not accept that Mr Buckley should be compensated for representation at mediation. That was a separate process to the investigation by the Authority. There is no claim for any failure by Nimons to act in good faith at that mediation and it did not have to be directed to attend by the Authority. I also accept that Mr Buckley's witness was not necessary for the investigation meeting and that was why he was released from attending.
5. Taking all matters into consideration, I find that a reasonable contribution to Mr Buckley's costs would be \$2,500 plus disbursements of \$96.
6. I therefore order the respondent, Nimon and Sons Limited, to pay to the applicant, Darryl Vincent Buckley, the sums of \$2,500 in costs and \$96 in disbursements.

**G J Wood**  
**Member of Employment Relations Authority**