

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Errol Cameron (Applicant)

AND Stan Semenoff Transport Limited (Respondent)

REPRESENTATIVES Rowland Ingram, Advocate for Applicant
Stuart Henderson, Counsel for Respondent

MEMBER OF AUTHORITY Leon Robinson

SUBMISSIONS RECEIVED 19 June 2006

DATE OF DETERMINATION 21 June 2006

DETERMINATION OF THE AUTHORITY AS TO COSTS

[1] By a Determination dated 1 June 2006¹, I determined that Mr Errol Cameron ("Mr Cameron") had a personal grievance. I made various orders to resolve that problem.

[2] The parties were invited to resolve costs between them but they were unable to agree. The representatives have made submissions to assist me in the exercise of the Authority's discretion.

[3] Mr Ingram advises that Mr Cameron's costs are in the amount of \$3,500.00 (exclusive of GST). He submits that the respondent had ample opportunity to settle the matter but "due to its obdurateness, lack of good faith and closed mind" elected to proceed with the matter "resulting in increased costs for the Applicant". Mr Ingram respectfully submits that the respondent should be ordered to pay Mr Cameron's full costs.

[4] Mr Henderson confirms the Authority's jurisdiction to award costs and the general rule that costs follow the event. He submits that the average award of costs in the Authority is in the order of \$1,500.00 per day and a reasonable hourly rate for work rendered is \$250.00. He reminds the Authority of its substantive finding of Mr Cameron's contributory fault and on that basis, submits that a reduced award of costs of \$750.00 including GST is appropriate.

[5] In exercising its discretion to award costs, the Authority adopts a principled approach taking into account relevant matters and taking no account of irrelevant ones. Generally, awards of costs in the Authority are modest consistent with the Authority's approach to investigations.

[6] This investigation meeting proceeded over one day. Mr Cameron succeeded in his claim for unjustifiable dismissal. He is entitled to an award of costs but not on an indemnity basis. He shall have a reasonable contribution to his actual costs.

¹ AA193/06

[7] There is nothing unusual in this case or any particular factor that warrants any departure from the Authority's conventional approach to costs.

[8] As I do not regard an award of costs as a remedy, the finding of contributory fault has no application in the proper exercise of the statutory discretion to award costs.

[9] Exercising my discretion on a principled basis, **I order Stan Semenoff Transport Limited to pay to Errol Cameron the sum of \$1,500.00 as a contribution to costs.**

Leon Robinson
Member of Employment Relations Authority