

[3] The second point made on behalf of the applicant is that the matter was essentially a dispute about the interpretation, operation or application of the employment agreement and in those circumstances neither party should seek costs against the other, regardless of the outcome. I am referred to *New Zealand Tramways Union (Wellington Branch) v. Wellington City Transport Ltd (T/A Stagecoach New Zealand)* [2002] 2 ERNZ 435 where the Employment Court said:

It seems questionable whether the Authority should ever award costs when asked to assist parties by investigating the meaning of a collective instrument or by determining its proper application and operation.

[4] While the proceedings were in the name of Mr Conrad this matter was essentially a dispute about the interpretation, operation or application of an employment agreement negotiated between Real Journeys Limited and Mr Conrad's Union, the Merchant Services Guild Incorporated. Mr Conrad objected to rostering arrangements that required him to work a long sequence of days without time off. In part the problem arose because of the change from a winter roster cycle to a summer roster cycle. Negotiated changes to the applicable employment agreement made a difference to the problem and its resolution. Although the matter was able to be resolved in a relatively short determination it was nonetheless genuinely a dispute about the interpretation, operation or application of the rostering and hours of work provisions in the collective employment agreement.

[5] Mr Conrad had another string to his bow in that he argued that there had been a breach of the implied term of his employment agreement for Real Journeys to take all reasonable care to avoid exposing him to unnecessary risk of injury in its rostering arrangements. Despite that secondary argument I found that the problem remained essentially a dispute as defined by the Act.

[6] In these circumstances the Court's view expressed in the *Stagecoach* case referred to above should apply and I decline to make any award of costs.

Philip Cheyne
Member of the Employment Relations Authority