

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

AA 7A/10  
5155393

BETWEEN

HAYDEN COURTNEY  
Applicant

AND

SUPER CHEAP AUTO (NEW  
ZEALAND) PTY LIMITED  
Respondent

Member of Authority: Dzintra King

Submissions received: 10 February 2010 from Applicant  
10 February 2010 from Respondent

Determination: 19 March 2010

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**COSTS DETERMINATION OF THE AUTHORITY**

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[1] The applicant, Mr Hayden Courtney, was unsuccessful in his personal grievance claim. He also unsuccessfully claimed that his employment agreement was defective. The parties have been unable to agree costs, the applicant not having responded to the respondent's letter regarding the matter. The respondent now seeks costs.

[2] The criteria for awards of costs are set out in *PBO Ltd (formerly Rush Security Ltd) v Da Cruz* [2005] 1 ERNZ 808.

[3] The respondent seeks an award of \$3,000 and notes that much of the time during the hearing was taken up the applicant's counsel cross-examining the respondent's witnesses on irrelevant matters despite objections by Mr Rooney and comments from the Authority. This extended the length of the hearing.

[4] The respondent's costs are \$29,107.50 plus GST. It seeks a contribution of \$3,000 plus disbursements, being \$352.73 for travel from Auckland to Hamilton and photocopying, printing and telephone charges of \$474.49.

[5] Mr Parlane's costs' submissions unfortunately consist of improper remarks of a personal nature. The derogatory and intemperate criticisms made by Mr Parlane are not helpful in the context of submissions on costs. His criticisms would have been more appropriately addressed by filing a challenge.

[6] Mr Parlane contended that the applicant should be entitled to costs despite being the unsuccessful party and asserted that the applicant had no means to make payments. At the time of the hearing Mr Courtney was employed by the respondent. Mr Parlane does not indicate that that employment has come to an end nor has he provided any evidence of the applicant's impecuniosity.

[7] The respondent was put to the trouble of defending an unmeritorious claim and is entitled to a contribution to its costs. The amount sought is reasonable.

[8] The applicant is to pay the respondent the sum of \$3,000 costs and disbursements of \$827.22.

Dzintra King

Member of the Employment Relations Authority