

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

[2011] NZERA Wellington 204
5318131

BETWEEN DAVID DAHYA
 Applicant

AND ACCOUNTANTS FIRST
 LIMITED
 Respondent

Member of Authority: G J Wood

Representatives: Graeme Ogilvie for the Applicant
 Frances Lear for the Respondent

Investigation Meeting: By way of submissions received by 7 December 2011

Determination: 19 December 2011

COSTS DETERMINATION OF THE AUTHORITY

[1] In my substantive determination I found that Mr Dahya was unjustifiably dismissed by the respondent (Accountants First), and awarded him, after contribution, compensation of \$1,333 and lost remuneration of \$936 gross.

[2] Mr Ogilvie sought costs on behalf of Mr Dahya, as the successful applicant, in the sum of \$2,500 plus \$71.56 in disbursements based on the Authority's tariff approach to costs.

[3] On behalf of Accountants First, Ms Lear submitted that costs should lie where they fall on the basis of a *Calderbank* offer of \$2,000 in compensation.

[4] Although the *Calderbank* offer was set at a level close to the remedies finally obtained by Mr Dahya, they were less than those remedies, particularly as Mr Dahya had already incurred some costs in advance of the offer. Furthermore, the offer only allowed for two working days for acceptance, which was insufficient time for Mr Dahya to have properly assessed its merits before its expiration.

[5] Given these circumstances, I do not accept the *Calderbank* offer was effective, and I therefore determine the matter on the tariff approach. I accept Mr Ogilvie's submissions that \$2,500 is an appropriate contribution to costs given the day's investigation meeting and Mr Dahya's relative success.

[6] I therefore order the respondent, Accountants First Limited, to pay to the applicant, Mr David Dahya, the sum of \$2,500 in costs, plus \$71.56 in disbursements.

G J Wood
Member of the Employment Relations Authority