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Dyer v Beauty Management Riccarton Limited CA91A/10 (Christchurch) [2010] NZERA 700 (18 August 2010)

Last Updated: 10 November 2010

IN THE EMPLOYMENT RELATIONS AUTHORITY CHRISTCHURCH

CA 91A/10 5281298

BETWEEN TESSA DYER

Applicant

A N D BEAUTY MANAGEMENT

RICCARTON LIMITED Respondent

Member of Authority: Representatives:

Submissions:

Helen Doyle

Jeff Goldstein, Counsel for Applicant Joseph Brooks, Advocate for Respondent

7 May 2010 from Applicant No submissions from respondent

Determination:

18 August 2010

COSTS DETERMINATION OF THE AUTHORITY

[1] In my determination dated 16 April 2010 I found in favour of the applicant that she was unjustifiably dismissed and awarded remedies. I also ordered the respondent to pay a penalty for its failure to provide time and wage records when requested.

[2] I reserved the issue of costs and have now received submissions from the applicant. The respondent failed to comply with the timetable set out in the determination and has now challenged the determination. I intend however to proceed to determine costs.

[3] The applicant seeks costs in the sum of \$2,500 acknowledging that it is more than would be typically awarded in a case of this nature. Mr Goldstein on behalf of the applicant submits there were several factors in this case that increased the costs.

He referred to the respondent failing to participate in the initial telephone conference of the Authority, and not providing statements of evidence or documents within the timeframe set out in the Authority's notice of direction. The respondent did not attend mediation.

[4] On the day of the investigation meeting one of the parties referred to in the statement of problem, Joseph Brooks, attended the investigation meeting and said that he did not employ the applicant. The Authority proceeded to hear evidence from the applicant including about the identity of the employer and then adjourned the matter to a date the following week to enable Mr Brooks to provide further documentation about the identity of the applicant's employer. By consent the name of the respondent was amended to Beauty Management Riccarton Limited and the respondent given an opportunity to provide evidence to the Authority but it failed to do so.

Determination

[5] Although the hearing time involved in this matter was less than a full day, I accept there were additional costs to the applicant because of the failure by the respondent to participate fully in the Authority's process. What on the fact of it was a relatively straightforward matter therefore became more complex.

[6] Applying the principles set out by the Full Court of the Employment Court in *PBO Ltd (formerly Rush Security Ltd) v. Da Cruz* [2005] NZEmpC 144; [2005] 1 ERNZ 808 I find that the applicant is entitled to reimbursement of costs in the sum of \$2,000 in all the circumstances.

[7] I order Beauty Management Riccarton Ltd to pay to Tessa Dyer the sum of \$2,000 being costs.

Helen Doyle

Member of the Employment Relations Authority

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