

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON OFFICE**

BETWEEN Imeleta Faletolu (Applicant)
AND Tofilau Finance Limited (Respondent)
COSTS REQUESTED 9 March 2006
MEMBER OF AUTHORITY P R Stapp
DATE OF DETERMINATION 24 April 2006

COSTS DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] The Applicant has requested the \$70 filing fee following a consent determination being made on 7 February 2006. The Respondent was notified of the request for the cost but elected not to reply. The Applicant should be reimbursed the filing fee because:

- The parties did not raise an issue of costs at the time of the Authority's consent determination was made. The Authority recorded that there was no issue of costs without addressing the matter with the parties at the time. However, it is entirely reasonable for the applicant to raise it now and have it disposed of since the consent agreement did not exclude it from being raised at a future date and costs are allowed to be sought under *Clause 15 of Schedule 2 of the Employment Relations Act*.
- The statement of problem did not identify a claim for costs. However, the parties were not legally represented and can be excused for not having detailed knowledge of what to claim given the assistance they needed in this matter. In any case the Respondent was put on notice of the request for costs.
- The Applicant was put to the unnecessary expense to bring proceedings to get her entitlement.

- The Respondent could have done more to save costs such as taking some responsibility to use mediation services provided by the Department of Labour and avoided the claim in the Authority.
- The Respondent put an entirely unreasonable condition on payment for which there was no legal basis to support it.

[2] The parties saved costs by avoiding an investigation meeting. The claim for \$70 is very modest in comparison to what expenses could have been incurred. Since the parties were not legally represented there can be no order for any other costs that they have to meet themselves.

[3] Therefore, I order Tofilau Finance Limited to pay to Imeleta Faletolu the \$70 filing fee for the proceedings.

P R Stapp

Member of the Authority