

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

CA 134/10  
5116643

BETWEEN CHRISTOPHER FORD and  
CHARMAINE PATTISON  
Applicants

A N D LEE MANSON  
Respondent

Member of Authority: James Crichton  
Representatives: Tom Stephens, Counsel for Applicants  
Carla Jones, Advocate for Respondent  
Submissions Received: No submissions from Applicants  
25 March 2010 from Respondent  
Determination: 24 June 2010

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**COSTS DETERMINATION OF THE AUTHORITY**

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**The application for costs**

[1] By determination dated 9 June 2009, the Authority resolved the employment relationship problem between these parties by declining to reopen its investigation which had previously determined that Mr Manson had a personal grievance for unjustified dismissal.

[2] Costs were reserved.

**The claim for costs**

[3] Mr Manson, the successful party in resisting the application to reopen, seeks full solicitor/client costs. These are in the amount of \$2,548.59. The Authority is provided with a printout of the costs charged to Mr Manson.

[4] In support of the contention that full indemnity costs be fixed in the matter, Mr Manson submits that the application to reopen was *frivolous and without merit*. I agree. As I indicated in the determination on the reopening, I am satisfied that the only reason the reopening application was made was because Mr Manson's former employers were being pursued for settlement of the Authority's earlier award in Mr Manson's favour.

[5] No submission has been received from the unsuccessful applicants.

### **The legal principles**

[6] The legal principles that apply in cost fixing in the Authority are well set out in the decision of the Full Court in *PBO Ltd v. Da Cruz* AC2A/05. That decision commends the daily tariff approach frequently used by the Authority in a costs setting but also lists the various well known principles which ought to receive consideration in the costs setting environment.

[7] Amongst those principles is the discretion given to the Authority to review and determine matters having regard to the particular circumstances of the individual case and in unusual circumstances to fix costs on a full solicitor/client basis.

### **Determination**

[8] The fundamental principle in the costs environment must be that costs usually follow the event. There is no reason why that should not be the case in the present matter. This was a situation where Mr Manson, having been successful in his initial claim to the Authority, was put to further cost by his former employer in resisting a claim for the matter to be reopened. As I determined in the reopening application, the application itself had no merit whatever as even the applicants acknowledged that they had treated Mr Manson unfairly and unreasonably, in making the concession that the procedure adopted *in effecting that dismissal is unacceptable*.

[9] This is a case where I think it appropriate to award full solicitor/client costs precisely because the applicants' claim was, even on their own admission, unmeritorious.

[10] The Authority directs that Mr Ford and Ms Pattison are to pay to Mr Manson the sum of \$2,548.59 to reimburse Mr Manson for his costs in resisting the application to reopen.

[11] A certificate of determination is to issue to Mr Manson as well.

James Crichton  
Member of the Employment Relations Authority