

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2013] NZERA Auckland 515
5396930

BETWEEN ANGELIQUE FREDATOVICH
Applicant

A N D TREASURY WINE ESTATES
(NZ) LIMITED
Respondent

Member of Authority: T G Tetitaha

Representatives: G D Bennett, Advocate for Applicant
E J Butcher, Counsel for Respondent

Investigation Meeting: On the papers

Submissions Received: 10 November 2013 from Applicant
6 May 2013 from Respondent

Date of Determination: 13 November 2013

COSTS DETERMINATION OF THE AUTHORITY

**A. Angelique Fredatovich shall pay Treasury Wine Estates (NZ)
Limited the sum of \$7,000 towards costs**

[1] Following the successful defence of a personal grievance,¹ Treasury Wine Estate (NZ) Limited (Treasury Wine) seeks an award of costs of \$7,000. It submits the notional daily rate of \$3,500 should apply for the two day hearing. Its actual costs were \$20,716.

[2] Ms Fredatovich submits she had reasonable grounds to challenge the dismissal, has suffered professionally and personally, her actions leading to the dismissal were not dishonest and has been punished enough. Any award should be modest.

¹ *Fredatovich v Treasury Wine Estates (NZ) Ltd* [2013] NZERA Auckland 132

Issues

[3] The issues to be determined:

- (a) What is the starting point for assessing costs;
- (b) Are there any factors which warrant adjusting costs?

What is the starting point for assessing costs?

[4] The starting point for costs in the Authority is its notional daily tariff of \$3,500. This matter occupied two days hearing time. Accordingly the starting point for assessing costs is \$7,000.

Are there any factors which warrant adjusting costs?

Factors which warrant an increase in costs

[5] There are no factors warranting an increase in costs.

Factors which warrant a reduction in costs

[6] Conduct which increased costs unnecessarily can be taken into account when inflating or reducing an award². Ms Fredatovich submits she is paying the price for her lapse of judgment and this justifies a reduction in the daily tariff. Her conduct is not a factor for reduction in costs. The relevant conduct is that of the applicant for costs, Treasury Wines. There is no conduct by Treasury Wines warranting reduction.

[7] Ms Fredatovich submits costs shall have a financial impact upon her and should be modest. Costs awards must take into account the ability to pay³. There is no evidence Ms Fredatovich is unable to meet an award of costs.

[8] The Authority determines that Angelique Fredatovich shall pay Treasury Wine Estates (NZ) Limited the sum of \$7,000 towards costs.

T G Tetitaha
Member of the Employment Relations Authority

² *PBO Ltd (formerly Rush Security Ltd) v. Da Cruz* [2005] 1 ERNZ 808 (EmpC) at [35]

³ *Richardson v. Board of Governors of Wesley College* [1999] 2 ERNZ 199, 229/12 ff