

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 18/10
5125583

BETWEEN ANTHONY GIBBONS
 Applicant

AND QUALITY MARSHALLING
 (MOUNT MAUNGANUI)
 LIMITED
 Respondent

Member of Authority: Vicki Campbell

Representatives: Ben Thompson for Applicant
 Mark Beech for Respondent

Submissions Received: 26 November 2009 from Applicant
 24 November 2009 from Respondent

Determination: 19 January 2010

COSTS DETERMINATION OF THE AUTHORITY

[1] By determination dated 29 October 2009 I found Mr Gibbons had established to my satisfaction a personal grievance for unjustified disadvantage but not a personal grievance for unjustified dismissal. In my determination I reserved the questions of costs and encouraged to parties to settle this matter between them. They have been unable to do so and I am now in receipt of memorandum from both parties.

[2] The Respondent has advised that its total costs amounted to \$31,641 exclusive of GST. It is submitted that the applicant's claim for unjustified dismissal was the more weighty of the causes of action before the authority and on that basis the Respondent was the successful party and therefore costs should be awarded to it. The respondent seeks a contribution of \$15,000 from Mr Gibbons.

[3] Mr Thompson argues that the Authority's preliminary view that costs ought to lie where they fall is consistent with the results and equity and asks the Authority to adopt its expressed preliminary view.

[4] The conventional rule is that costs follow the event. In this case both parties had a modicum of success. I am not persuaded by the submissions of counsel to alter my preliminary view that costs ought to lie where they fall and that remains my view.

[5] In the principled exercise of my discretion I order that neither party shall have costs against the other.

Vicki Campbell
Member of Employment Relations Authority