

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

[2011] NZERA Wellington 47

File Number: 5304506

BETWEEN

Jamie Goodwin

Applicant

AND

Steve Quinn and Kapiti Coast

Holdings Limited

Respondents

Member of Authority: Denis Asher

Representatives: Joe Richardson and Katie Paterson for Mr Goodwin
Steve Quinn for himself and the Company

Submissions received: 21 March 2011

Determination: 28 March 2011

COSTS DETERMINATION OF THE AUTHORITY

[1] In my determination dated 6 January 2011 ([2011] NZERA Wellington 1) I found in favour of Mr Goodwin's claim that he was owed holiday pay, interest on the same and that the respondents should be required to pay a penalty, to be awarded to the applicant.

[2] While costs were reserved, I noted that Mr Quinn's failure to participate in the process had contributed significantly to costs unnecessarily incurred by Mr Goodwin and that – subject to submissions – a contribution to the latter's fair and reasonable costs for a half day investigation might be expected.

The Respondents' Costs Submissions Summarised

[3] In submissions received on 15 March 2011 Mr Quinn attempted to both reargue the Authority's substantive findings and dispute the costs sought by the applicant's advocate, Mr Joe Richardson, of \$2,000. In respect of the latter, Mr Quinn's disputes the amount of time claimed by implication in Mr Richardson's (unparticularised) account.

Mr Goodwin's Costs Submissions Summarised

[4] The costs submissions filed by the applicant rely on a claim that they are fair and reasonable for this matter.

Discussion and Findings

[5] The Authority's involvement in the substantive employment relationship problem has now ended: the doctrine of *res judicata* applied.

[6] The Authority's discretion with which to award costs is now well settled and typically follows the event: *PBO Limited (formerly Rush Security Limited) v Da Cruz* [2005] 1 ERNZ 808.

[7] Notwithstanding Mr Quinn's submissions, I have no reason to change the view set out in the substantive determinate, that his failure to participate in this process contributed significantly to the costs incurred by the applicant.

[8] I am satisfied that, in all the circumstances and after having particular regard to the hours seemingly expended by Mr Richardson, a costs award of \$1, 500 against the respondents and a direction to pay the applicant's \$70 filing fee are entirely appropriate.

Determination

[9] The respondents are to pay to Mr Goodwin by way of a contribution to his fair and reasonable costs \$1, 500 (one thousand and five hundred dollars) and the \$70 (seventy dollar) filing fee.

Denis Asher

Member of the Employment Relations Authority