

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 114A/10
5153997

BETWEEN MELISSA GRAY
 Applicant

AND JAMES PASCOE LIMITED
 Respondent

Member of Authority: Yvonne Oldfield

Representatives: Garry Pollak for Applicant
 Parvez Akbar for Respondent

Submissions received: 12 April 2010 from Respondent
 4 May 2010 from Applicant

Determination: 26 July 2010

COSTS DETERMINATION OF THE AUTHORITY

[1] This employment relationship problem was the subject of a determination dated 15 March 2010 in which the applicant's claims of unjustified dismissal were dismissed. The Respondent has now made an application for costs. I was told that the Respondent's total costs were \$9,400.00 plus disbursements of \$31.39. It was submitted for the Respondent that:

"The Respondent respectfully submits that the above costs are reasonable and necessary.

The Respondent urges the Authority to award a significant contribution towards its costs."

[2] In responding for Ms Gray, Mr Pollak noted that Ms Gray is legally aided and therefore that no order for costs can be made in the respondent's favour.

[3] No order for costs may be made against an aided person in a civil proceeding unless there are exceptional circumstances.¹ There has been no suggestion of any such circumstances in this case. It is not therefore open to me to award costs against the applicant.

[4] I do record however that any such award would have been within the Authority's usual range on the basis that the investigation into this matter was relatively straightforward and required a meeting of less than a day. I can indicate that I would have considered a \$3,000.00 contribution to the respondent's costs to have been appropriate.

Yvonne Oldfield

Member of the Employment Relations Authority

¹ Legal Services Act 2000, s. 40 (Liability of aided person for costs.)