

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Digby Green (Applicant)
AND Marexim Export-Import Limited (Respondent)
REPRESENTATIVES Hamish Russ, Advocate for Applicant
Kim Stretton, Advocate for Respondent
MEMBER OF AUTHORITY R A Monaghan
MEMORANDA RECEIVED 30 October and 4 November 2005
DATE OF DETERMINATION 18 November 2005

DETERMINATION OF THE AUTHORITY ON COSTS

[1] In a determination in the above matter, dated 10 October 2005, I found Mr Green's dismissal on the ground of redundancy was justified. I also found that a personal grievance based on an allegedly unjustifiable action on the part of Marexim Export-Import Limited ("MEIL") was raised outside the 90-day period set out in s 114 of the Employment Relations Act 2000, and declined to grant leave to raise the grievance out of time. Costs were reserved.

[2] MEIL now seeks a contribution to costs in the sum of \$2,200. The advocate for Mr Green says costs should lie where they fall, saying Mr Green was not in a position to make any payment, his case was not without merit, and 'a lot of effort' was wasted in 'pushing issues that were held to be of no relevance to the determination'. I do not understand the last point and assume it relates to something not drawn to the Authority's attention. In any event I do not accept there was anything in the conduct of the case before the Authority which should be reflected in costs to the detriment of MEIL.

[3] As the successful party MEIL is entitled to a contribution to its costs. The contribution it seeks is reasonable. In reply Mr Green's advocate has raised an ability to pay issue. While the evidence as at the date of the investigation meeting was that Mr Green's income since his redundancy was sporadic, it did not go as far as to persuade me his financial circumstances mean he would be unable to meet an award of costs.

[4] Mr Green is therefore ordered to contribute to MEIL's costs in the sum of \$2,200.

R A Monaghan
Member, Employment Relations Authority