

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2013] NZERA Auckland 161  
5370051

BETWEEN                      JAMES MURRAY GRIFFITHS  
   Applicant  
  
A N D                              A1 BOBCATS & CONCRETE  
   LIMITED  
   Respondent

Member of Authority:      K J Anderson  
  
Representatives:              A Singh, Counsel for Applicant  
   S McKenna, Counsel for Respondent  
  
Submissions Received:      3 April 2013 from Applicant  
   15 April 2013 from Respondent  
  
Date of Determination:      2 May 2013

---

**COSTS DETERMINATION OF THE AUTHORITY**

---

[1] In a determination dated 4<sup>th</sup> March 2013<sup>1</sup> the Authority found that the dismissal of Mr Griffiths was unjustified and a remedy (reimbursement of lost wages) was awarded. Pursuant to s.124 of the Employment Relations Act, Mr Griffiths was found to have contributed to the situation that have rise to the grievance and the remedy awarded to him was reduced by 50%. The parties were invited to resolve the issue of costs. The parties have been unable to reach an agreement regarding an appropriate level of costs and submissions have now been received from both parties, leaving the Authority to now determine this issue.

[2] The submissions for Mr Griffiths inform that he incurred costs of \$4,500 (plus GST) and the Authority accepts that they have been reasonably incurred.

---

<sup>1</sup> [2013] NZERA Auckland 74.

Mr Griffiths acknowledges the current daily tariff approach applied by the Authority and that an award of \$3,500 for a one day hearing “would be relevant”. However, the applicant submits further that as the remedy awarded to him was reduced by 50%, this reduction should also apply in costs setting; hence an award of \$1,750 would be appropriate. But my notes show that the investigation meeting took (at best) half of a day; finishing at 12:30p.m. Therefore, given that there was nothing unusual about the proceedings, the costs award would normally be \$1,750, with a consideration of a possible reduction, as submitted for Mr Griffiths.

[3] The submissions for the respondent refer to the limited success achieved by Mr Griffiths and allude to the fact that litigation could have been avoided if he had accepted the offer of reinstatement rather than pursuing “exorbitant remedies” from the Authority. The respondent submits that any costs awarded to Mr Griffiths should not exceed \$500.

### **Determination**

[4] The outcome of the substantive matter was that the Authority found that both parties were equally at fault and the remedy awarded to Mr Griffiths reflected this. It seems to me that it is appropriate to apply the same principle in regard to a costs award, as conceded in the submissions for Mr Griffiths. In normal circumstances, an award of \$1,750 for a half day hearing would be appropriate; and in this case a 50% reduction should be applied.

[5] Pursuant to clause 15 of Schedule 2 of the Employment Relations Act 2000, A1 Bobcats & Concrete Limited shall pay to Mr Griffiths the sum of \$875.00 as a contribution towards the costs incurred in pursuing his personal grievance.

**K J Anderson**  
**Member of the Employment Relations Authority**