

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2020] NZERA 98
3048513

BETWEEN

SAMUEL HAGGITT
Applicant

A N D

FERGUSON BUILDERS LIMITED
Respondent

Member of Authority: Peter van Keulen

Representatives: Jenny O’Neill, counsel for the Applicant
Carolyn Moffat, counsel for the Respondent

Investigation Meeting: 24 October 2019

Submissions Received: 19 November 2019 and 29 November 2019 from the Applicant
25 November 2019 from the Respondent

Date of Determination: 2 March 2020

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] Samuel Haggitt worked at Ferguson Builders Limited from 12 February 2018 until 19 September 2018. Mr Haggitt says Ferguson Builders:

- (a) Failed to provide him with an employment agreement that contained all of the terms of his employment;
- (b) Did not honour all of the terms of his employment during his employment;
- (c) Failed to find new accommodation for him, when his previous accommodation arrangements came to an end;

(d) Breached obligations it owed to him when it pursued him for repayment of a loan he had received from it and other money he owed to it for tools he had purchased; and

(e) Breached his privacy by telling another employee about the loan he had with it.

[2] Mr Haggitt raised various personal grievances for these actions including unjustified dismissal when he resigned.

[3] Ferguson Builders denies all of these claims and has raised its own claim against Mr Haggitt. That claim is that Mr Haggitt breached the confidentiality attached to mediation when he disclosed details of the mediation to the disputes tribunal.

[4] I have investigated Mr Haggitt's various grievances and Ferguson Builders' claim and this determination resolves them.

Analysis of claims

[5] I will analyse Mr Haggitt's claims in four parts and will then address Ferguson Builders' counterclaim.

[6] The four parts to Mr Haggitt's claims are:

- (a) The unjustified action causing disadvantage grievances arising out of the alleged terms and conditions of employment;
- (b) The unjustified action causing disadvantage grievance arising out of the alleged failure to find new accommodation for Mr Haggitt;
- (c) The unjustified action causing disadvantage grievances relating to the loan provided to Mr Haggitt and the money spent on tools;
- (d) The unjustified dismissal claim arising out of Mr Haggitt's resignation for the alleged failure to honour the terms of his employment, the alleged failure to provide accommodation for him and undue pressure placed on him to work until the end of 2018 and when he expressed a desire to leave Ferguson Builder and return to Christchurch.

Terms and conditions of Mr Haggitt's employment

Background

[7] Ferguson Builders is a company that builds residential and domestic buildings in Queenstown. Robert Ferguson, a director and shareholder of Ferguson Builders, is essentially the general manager and he runs the building business together with his wife Melissa Ferguson.

[8] In 2017, Mr Ferguson and Mr Haggitt discussed potential employment with Ferguson Builders. Ferguson Builders needed an additional carpenter and Mr Ferguson knew Mr Haggitt and was keen to bring him on board.

[9] The problem initially was that Mr Haggitt had a carpentry job in Christchurch where he lived with his partner and daughter, and he was reluctant to move to Queenstown. However, Mr Haggitt was having some financial difficulties and began to see a move to Ferguson Builders as an opportunity to make more money.

Negotiations and offer of employment

[10] Discussions progressed through November with a meeting in Christchurch and subsequent exchanges between Mr Haggitt and Mr Ferguson through snapchat.

[11] By 26 November 2017 the discussions had reached a stage where Mr Haggitt had agreed to take the job offered to him. Mr Ferguson sent Mr Haggitt a formal offer by email. This offer was made up of an employment agreement generated through the MBIE employment agreement builder, which was sent directly by email from the MBIE website to Mr Haggitt, and a job description and letter of offer sent by email from Mr Ferguson.

[12] The cumulative effect of the documents sent to Mr Haggitt was an offer made by Ferguson Builders of employment on the following terms:

- (a) Fulltime position working 40 hours per week as a foreman;
- (b) Wages of \$35.00 per hour;

- (c) Company van for work and personal use including travel to Christchurch with fuel and expenses paid;
- (d) Mobile telephone contract to the value of \$50.00 per month;
- (e) Accommodation in Queenstown paid for by Ferguson Builders.

Mr Haggitt's issues with the offer of employment

[13] Mr Haggitt says the offer did not include all of the terms discussed with Mr Ferguson. The three aspects he says were discussed and agreed prior to the offer being made were that Ferguson Builders would pay for flights between Christchurch and Queenstown for him or his partner and daughter during his employment, he would be paid an increased wage rate for variations or additional work on builds and he would be paid a bonus as different stages of a build were met.

[14] As the offer did not include these additional terms Mr Haggitt did not sign it but he did not raise his concerns about the documentation with Ferguson Builders, rather he accepted the offer of employment. Mr Haggitt says his acceptance was not on the terms set out in the formal offer but the enhanced terms he believed had been agreed; Mr Haggitt did not tell Mr Ferguson this was the basis of his acceptance.

Commencement of employment

[15] After accepting the offer of employment Mr Haggitt resigned from his employment in Christchurch and he started work with Ferguson Builders on 12 February 2018.

[16] Mrs Ferguson processed the payroll on 21 February 2018 and paid Mr Haggitt his first pay from Ferguson Builders. She contacted Mr Haggitt after the payment had been processed to tell him she had his pay slip and to check if the payment was right. Mr Haggitt sent a message to Mrs Ferguson later that day stating "yea it looks algood just got taxed more than I thought I would...".

Ongoing employment

[17] Through the course of his employment Mr Ferguson never raised any issues with the payments he received although he did mention to both Mr and Mrs Ferguson at times that he was stressed about money and he was trying to figure out how to make as much money as possible.

[18] During the time that Mr Haggitt worked at Ferguson Builders he travelled back to Christchurch for some weekends. He was able to leave work early on the Friday afternoon and use the work van, including charging the petrol to Ferguson Builders. On one occasion Ferguson Builders paid for a return flight to Christchurch for Mr Haggitt. Mr Haggitt never raised the issue of flights between Christchurch and Queenstown being provided for him as he believed had been agreed. When I asked him about this he said it was too awkward to bring up so he just left it.

[19] Also, when I asked Mr Haggitt about what was agreed in respect of the return flights to Christchurch or Queenstown there was a lack of clarity or certainty, so for example, Mr Haggitt was unable to say how often the flights would be or whether there was some restriction in terms of how much would be spent.

[20] The same pattern emerged in respect of the alleged extra payments for variations or additional work and bonus payments for build stages being met. These payments were not made by Ferguson Builders and Mr Haggitt never raised any concern or issue with Ferguson Builders about them. Further Mr Haggitt was unable to provide any detail of what was agreed regarding the additional payments and how both schemes would operate, in short he could not describe how much extra he would be paid, by way of additional payments for work or bonuses, and when or how these payments would be triggered.

Personal grievances

[21] Based on these events, Mr Haggitt claims Ferguson Builders acted in an unjustified manner which caused disadvantage to his employment as it:

- (a) Failed to provide him with an employment agreement that contained all of the terms of his employment; and
- (b) Did not honour all of the terms of his employment during his employment.

[22] There are two problems with these two personal grievances:

- (a) The grievances were not raised within 90 days of the alleged event or events occurring which give rise to his grievance; and
- (b) The evidence does not support the grievances as alleged.

[23] Turning first to the raising of the personal grievances, section 114(1) of the Employment Relations Act 2000 (the Act) requires any person wishing to raise a personal grievance to do so within 90 days of when the action giving rise to the grievance occurred or when it came to the notice of the employee.

[24] In this case, the alleged actions giving rise to Mr Haggitt's grievances are Ferguson Builders providing the draft employment agreement and Ferguson Builders failing to provide return flights to Christchurch or Queenstown and failing to pay additional payments for extra work or bonuses for stage completions on builds. So the question is whether Mr Haggitt raised his grievance within 90 days of these actions.

[25] As no issues were raised by Mr Haggitt in respect of the employment agreement or the alleged failure to provide the additional terms he says he was entitled to during his employment, it cannot be the case that Mr Haggitt raised his personal grievances in time.

[26] Second, and in any event, there is insufficient evidence to show the three terms Mr Haggitt complains about had been agreed. Mr Haggitt was unable to describe with clarity

what the agreed terms were or how they were agreed. In contrast Mr Ferguson denies discussing these terms let alone agreeing them.

[27] Then there are three further aspects that support the conclusion that the terms were never agreed:

- (a) Mr Ferguson's evidence was that the additional terms Mr Haggitt claims would never have been agreed as the cost for providing them would bring Mr Haggitt's total remuneration package significantly over market rates and in excess of the remuneration package he received. I found this evidence to be credible and compelling.
- (b) The formal offer of employment did not include these additional terms.
- (c) The additional terms were never provided save for a one off provision of flights which Mr Ferguson says was done as a goodwill gesture for Mr Haggitt at a time when he seemed particularly stressed about his finances.

[28] Having analysed and considered all of the evidence I am simply not satisfied that there was any agreement over these additional terms. Therefore there was no obligation on Ferguson Builders to provide them, and consequently no failure on its part that can constitute a basis for the grievances (had the grievances been raised in time).

[29] The unjustified disadvantage grievances relating to the alleged terms and conditions of employment not provided are dismissed.

Accommodation for Mr Haggitt in Queenstown

Agreement to pay for accommodation

[30] There is no dispute between the parties that Ferguson Builders was to pay for Mr Haggitt's accommodation in Queenstown. This was originally negotiated as an allowance to cover Mr Haggitt's accommodation costs which Ferguson Builders anticipated would be \$250.00 per week.

Accommodation arranged and paid for by Ferguson Builders

[31] Rather than pay Mr Haggitt the accommodation allowance Ferguson Builders ended up paying his rent directly to the landlord. This arose because Mr Ferguson had a friend who had suitable accommodation for rent and Mr Ferguson secured it for Mr Haggitt and then Ferguson Builders just paid the cost of \$360.00 per week directly to Mr Ferguson's friend. This payment covered rent, power and internet.

Accommodation comes to an end

[32] In August 2018, Mr Ferguson's friend moved and a new landlord took over Mr Haggitt's accommodation. This created two problems. First, the new landlords, who lived above Mr Haggitt's accommodation, were noisy and disruptive and second, they advised Mr Ferguson that the rent for Mr Haggitt's accommodation would increase by \$50.00 per week.

[33] As a consequence, Mr Haggitt and Mr Ferguson agreed that Mr Haggitt would move to new accommodation. However there was no immediately obvious accommodation choice available for Mr Haggitt.

[34] After some discussion over this Mr Haggitt and Mr Ferguson decided that Mr Haggitt would move out of his accommodation on 24 August 2018 when he was due to start a week's holiday in Christchurch. They agreed that they would look for new accommodation, including temporary options if no suitable long term accommodation was found, by the time Mr Haggitt returned from Christchurch.

[35] From the point this was agreed the parties looked for new accommodation. Mr and Mrs Ferguson looked at options for long term accommodation including trying to find accommodation similar to what Mr Haggitt had, looking at office space that had accommodation attached and renting a house and finding flatmates for Mr Haggitt.

[36] As the search for new accommodation progressed Mr Haggitt and Mr Ferguson discussed various short term options such as Mr Haggitt staying with Mr and Mrs Ferguson (as he had done in the past), Mr Haggitt using a caravan owned by Mr and Mrs Ferguson and Mr Haggitt staying with friends.

[37] Unfortunately neither Mr Haggitt nor Mr and Mrs Ferguson were able to finalise any long term accommodation for Mr Haggitt for his return to Queenstown. And Mr Haggitt did not take up any of Mr and Mrs Ferguson's options for temporary accommodation.

[38] It is clear to me that there was a communication break-down about this between the two with Mr Haggitt thinking Mr Ferguson was going to arrange something whilst he was in Christchurch and Mr Ferguson believing Mr Haggitt had some temporary accommodation with friends and they would both look again for a long term solution once he was back in Queenstown.

[39] On Sunday, 2 September 2018, when Mr Haggitt was driving back to Queenstown, Mr Ferguson sent him a message to check he was going to stay with his friends. Mr Haggitt replied "nah bit late notice to turn up late tonight for them I reckon I'll sort something". Mr Ferguson responded to this by offering a bed at his house telling Mr Haggitt the bed was made up and the front door was open.

[40] Early on the morning of Monday 3 September 2018 Mr Haggitt sent Mr Ferguson a message advising that he was in Omarama – so it appeared he had not made it back to Queenstown for the Sunday evening and had either driven through the night or stopped somewhere on the way from Christchurch.

[41] Mr Haggitt attended work on 3 September 2018 but did not discuss accommodation with Mr Ferguson. That evening Mr Haggitt did not turn up at Mr Ferguson's house, so Mr Ferguson sent him a message asking him where he was at i.e. did he have somewhere to stay. Mr Haggitt did not respond to this and it transpires he slept in his car that evening.

[42] On Tuesday, 4 September 2018, Mr Haggitt booked himself into a motel. That evening he sent a message to Mr Ferguson stating "are you still looking for accommodation?" Mr Ferguson responded by repeating the question back to Mr Haggitt; this type of response was a standard joke between the pair, a form of banter between them, but in this case it did not address Mr Haggitt's concern that there was no immediate solution to his accommodation needs and Ferguson Builders was not going to find something for him.

[43] On the morning of Wednesday 5 September 2018, Mr Haggitt sent a message to Mr Ferguson saying he needed to take a day off to sort out accommodation.

[44] Mr Haggitt then arranged temporary accommodation with friends, and as he resigned on 5 September 2018 (discussed further below) nothing further was done about accommodation as the temporary accommodation covered Mr Haggitt's period of notice.

Personal grievance

[45] Mr Haggitt claims Ferguson Builders acted in an unjustified manner which caused disadvantage to his employment as it failed to find new accommodation for him.

[46] I accept that as a matter of fact, based on the evidence, Ferguson Builders did not find new accommodation for Mr Haggitt when his accommodation in Queenstown came to an end. However, I am not satisfied that this grievance is made out as Ferguson Builders did not have an obligation to find new accommodation for Mr Haggitt.

[47] Ferguson Builders' obligation regarding Mr Haggitt and his accommodation was to pay him an accommodation allowance. That Ferguson Builders found accommodation for Mr Haggitt and paid the landlord directly does not convert this obligation to one of having to provide accommodation.

[48] And the circumstances of Mr Haggitt leaving his accommodation and Mr Haggitt and Mr Ferguson looking for new accommodation does not create an obligation on Ferguson Builders. At best Mr Haggitt could only have had an expectation that Ferguson Builders, through Mr Ferguson, would help him find accommodation. Mr Haggitt may have felt let down by Mr Ferguson and frustrated that he could not find suitable accommodation himself. But, none of this creates a factual basis for the grievance alleged.

[49] In terms of the legal requirements for the grievance, as set out in sections 103(1)(b) and 103A of the Act, my view is Ferguson Builders' actions did not cause a disadvantage to Mr Haggitt's employment or a condition of his employment. And, in any event, Ferguson Builders' actions in trying to find accommodation and not succeeding were not unjustified in

the circumstance; Ferguson Builders acted as a fair and reasonable employer could in all of the circumstances.

[50] The unjustified disadvantage grievance relating to Ferguson Builders' failure to find Mr Haggitt new accommodation is dismissed.

Unjustified dismissal

Mr Haggitt resigns

[51] On 3 September 2018 Mr Haggitt and Mr Ferguson discussed Mr Haggitt's ongoing employment. Mr Haggitt says he was unhappy because of the accommodation situation and his financial concerns and he wanted to return to Christchurch to be with his family, something that was always going to happen. Mr Ferguson says Mr Haggitt came to see him and was clearly tired from driving back from Christchurch and he was unhappy.

[52] Whilst there are some discrepancies between Mr Haggitt's account of this conversation and Mr Ferguson's, it appears that they both agree on the main issues that were discussed. This included that Mr Haggitt was unhappy and wanted to return to Christchurch to be with his family and because he now thought he would be better off financially, particularly as he believed he could go back to his previous job with a pay rise. However, Mr Haggitt did not want to leave immediately as he knew he owed money for the loan (discussed below) and he did not want to leave on bad terms (i.e. owing money and not having an arrangement in place to pay it off). Mr Ferguson offered to Mr Haggitt that he remain working until the end of the year, which coincided with a build he was working on, and if he did he would then waive the loan.

[53] Mr Haggitt did not accept this straight away but by the morning of 5 September 2018 he had decided to accept the offer and that is why he decided to take the day off to look for accommodation.

[54] Mr Haggitt did not find any accommodation on 5 September. He says because of that, and because of broken promises by Ferguson Builders regarding the additional terms of his

employment, and because he felt his relationship with Mr Ferguson was deteriorating he decided to resign on notice rather than work until the end of the year.

[55] So around 4:00 pm on 5 September, Mr Haggitt called Mr Ferguson and told him he had decided to resign.

[56] As with the 3 September meeting, Mr Haggitt and Mr Ferguson have conflicting accounts of how this discussion progressed. They both agree that Mr Haggitt said he wanted to resign but disagree about what happened when they started talking about the notice period. Each describes the other as getting angry; Mr Haggitt says Mr Ferguson got angry and told him he should leave immediately; Mr Ferguson says he offered Mr Haggitt the opportunity to leave immediately as he realised how unhappy he was and Mr Haggitt became angry about this. The reality of who got angry at who is really immaterial as in the end both Mr Haggitt and Mr Ferguson agreed that Mr Haggitt would work two weeks' notice and his last day of work would be 19 September 2018.

Personal grievance

[57] Mr Haggitt claims he resigned because of Ferguson Builders' actions; it failed to honour all of the terms of his employment, it failed to find him new accommodation and it had placed undue pressure on him to stay until the end of the year in the discussion on 3 September. And Mr Haggitt says these things amount to breaches of duties owed to him and as he resigned because of those breaches his resignation amounts to a dismissal and that dismissal was unjustified.

[58] A resignation can amount to a dismissal in certain circumstances. In *Auckland Shop Employees Union v. Woolworths (NZ) Ltd*¹ the Court of Appeal set out three categories of constructive dismissal, which includes a breach of duty by the employer that leads an employee to resign. The Court of Appeal has also discussed a dismissal arising out of a

¹ In *Auckland Shop Employees Union v. Woolworths (NZ) Ltd* [1985] 2 NZLR 372 (CA) at 374-375.

breach of duty by an employer in other cases² and, as a result of that case law, I conclude that for this personal grievance I must consider:

- (a) Was there a breach of duty by Ferguson Builders as alleged;
- (b) Was that breach of duty sufficiently serious - repudiatory or dismissive - such that it was reasonably foreseeable that there was a substantial risk that Mr Haggitt might resign in response to that; and
- (c) Did Mr Haggitt resign in response to that breach of duty?

Breach of duty by Ferguson Builders

[59] I have already decided that the additional terms of employment that Mr Haggitt claims to have been entitled to were, in fact, not terms of employment agreed with Ferguson Builders. It follows that a failure to provide those terms cannot be a breach of duty.

[60] Similarly I have already decided that Ferguson Builders did not have an obligation to find new accommodation for Mr Haggitt so it also follows that a failure to find new accommodation is not a breach of duty.

[61] And, in respect of the last reason for resignation, that Mr Ferguson placed too much pressure on Mr Haggitt to stay until the end of the year I am not satisfied that this was the case i.e. I do not find that Mr Ferguson acted as alleged. So again there is no breach of duty as alleged.

[62] The cumulative effect of my conclusions is that my factual finding is that Ferguson Builders did not breach a duty or duties owed to Mr Haggitt, those alleged breaches being the reason for Mr Haggitt's resignation, and therefore Mr Haggitt's unjustified dismissal claim cannot succeed.

[63] The unjustified dismissal grievance is dismissed.

² *Wellington etc Clerical Workers etc IUOW v Greenwich* [1983] ACJ 965; *Auckland Electric Power Board v. Auckland Provincial District Local Authorities Officers IUOW Inc* [1994] 2 NZLR 415 (CA).

Loan and purchase of tools

Background

[64] On 4 April 2018, Mr Haggitt spoke to Mr Ferguson about becoming a contractor with Ferguson Builders. Mr Haggitt was concerned that he was still not earning enough money and he had ongoing financial difficulties; he believed switching to a contractor would mean he would receive more money after any tax was accounted for. Mr Ferguson declined Mr Haggitt's request explaining that Ferguson Builders was unable to put him onto a contractor arrangement.

Mr Ferguson offers to lend money to Mr Haggitt

[65] Mr Ferguson and Mr Haggitt discussed Mr Haggitt's financial concerns and Mr Ferguson offered him a loan to assist with some additional costs he was incurring in connection with Court proceedings in Australia. The terms of the loan were not formalised in writing and remained reasonably fluid in terms of the repayment expectations, with the basic assumption being that Mr Haggitt would repay the loan after the Court proceedings had finished, on terms to be agreed. The other aspect of the loan that is important for this claim is that the loan was a personal loan from Mr Ferguson to Mr Haggitt. The loan was not money advanced from Ferguson Builders and it was not connected to Mr Haggitt's employment per se.

Mr Haggitt purchases tools

[66] During the course of his employment with Ferguson Builders, Mr Haggitt also purchased tools using the Ferguson Builders account. As with the loan advanced by Mr Ferguson, the arrangements for repayment of the cost of the tools was reasonably fluid; there was an expectation that Mr Haggitt would pay the amount he had spent on the Ferguson Builders' account for the tools he had purchased but there were no agreed terms around this.

Personal Grievance

[67] Mr Haggitt claims Ferguson Builders acted in an unjustified manner which caused disadvantage to his employment as it:

- (a) Breached obligations it owed to him when it pursued him for repayment of the loan and the money he owed to it for tools after he had resigned; and
- (b) Breached his privacy by telling another employee about the loan he had with it.

[68] Turning first to the grievance relating to the action taken to collect the loan Mr Ferguson says is owing, I am not satisfied that there is a basis for the grievance:

- (a) The loan is a loan between Mr Haggitt and Mr Ferguson. It has no connection with the employment and I do not have jurisdiction over the claim that may arise between Mr Ferguson and Mr Haggitt for payment.
- (b) Mr Ferguson's actions in pursuing repayment of the loan are not actions of Ferguson Builders so there is no factual basis for an unjustified action causing disadvantage grievance.

[69] Looking at the action taken to seek repayment of money spent by Mr Haggitt on tools, the issue that arises is that whilst Ferguson Builders has taken steps to seek repayment of the money owed, these steps are not unjustified. The simple point is, Mr Haggitt appears to owe money for tools purchased and had not engaged in any discussions about repayment once he resigned. In pursuing repayment Ferguson Builders was acting as a fair and reasonable employer could in all of the circumstances.

[70] Then concluding with the grievance arising out of alleged breach of privacy I note that I do not have jurisdiction to deal with breaches of privacy under the Privacy Act 1993. However, this is not Mr Haggitt's claim. Rather he says Ferguson Builders' action of disclosing the existence of the loan to another employee is an unjustified act because of his expectation of privacy. Mr Haggitt says Ferguson Builders should not have discussed the loan with another employee because it was a private matter between himself and Ferguson Builders and in doing so it has caused a disadvantage to his employment.

[71] There are three reasons why this grievance cannot succeed:

- (a) I am not satisfied on the evidence that Mr Ferguson discussed the loan with another employee as alleged.
- (b) If Mr Ferguson did discuss it he did not breach any privacy as Mr Haggitt had also discussed the loan with that employee.
- (c) Even if there was a breach of privacy I do not see how that could cause a disadvantage to Mr Haggitt's employment.

[72] The unjustified disadvantage grievances relating to the loan and the money owed for tools purchased, are dismissed.

Counterclaim

[73] Ferguson Builders' counterclaim is that Mr Haggitt breached the statutory obligation of confidentiality that attaches to mediation³ when he disclosed to the disputes tribunal that certain matters had been discussed in mediation.

[74] The alleged disclosure that breaches confidentiality arose when Mr Haggitt responded to a request from the dispute tribunal about an update on his claim in the Authority as that impacted on a disputes tribunal claim against him.

[75] It is not necessary for me to set out the detail of what Mr Ferguson stated to the disputes tribunal in his email. I have considered the allegation, looked at the evidence and am not satisfied, based on the evidence I have⁴, that Mr Haggitt breached the confidentiality of mediation and therefore Ferguson Builders' claim against Mr Haggitt is dismissed.

Orders

[76] Ferguson Builders did not constructively dismiss Mr Haggitt and Ferguson Builders did not act in an unjustified manner causing disadvantage to Mr Haggitt's employment. Mr Haggitt's claims are dismissed.

³ Section 148 of the Employment Relations Act 2000.

⁴ An undated email from Mr Haggitt to the Disputes Tribunal.

[77] Mr Haggitt did not breach the confidentiality of mediation and Ferguson Builders' claim is dismissed.

Costs

[78] Costs are reserved. The parties are encouraged to resolve any issue of costs between themselves.

[79] If they are not able to do so and a determination on costs is needed, any party seeking an order for costs may lodge and serve a memorandum on costs within 14 days of the date of this determination. The other party will then have 14 days from the date of service of that memorandum to lodge and serve any reply memorandum.

Peter van Keulen
Member of the Employment Relations Authority