



New Zealand Employment Relations Authority Decisions

You are here: [NZLII](#) >> [Databases](#) >> [New Zealand Employment Relations Authority Decisions](#) >> [2007](#) >> [2007] NZERA 731

[Database Search](#) | [Name Search](#) | [Recent Decisions](#) | [Noteup](#) | [LawCite](#) | [Download](#) | [Help](#)

Heremia v Wilding International Ltd AA 237A/07 (Auckland) [2007] NZERA 731 (18 October 2007)

Last Updated: 22 November 2021

IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND

AA 237A/07 5030940

BETWEEN HELEN HEREMIA

Applicant

AND WILDING INTERNATIONAL LTD

Respondent

Member of Authority: Vicki Campbell Representatives: Rose Alchin for Applicant

Barry Pohio for Respondent

Submissions received: 27 September 2007 from Applicant
12 October 2007 from Respondent

Determination: 18 October 2007

COSTS DETERMINATION OF THE AUTHORITY

[1] In a determination dated 12 June 2007 I found that Ms Heremia had been unjustifiably dismissed and ordered the respondent to pay remedies.

[2] In my determination I reserved the question of costs and invited the parties to resolve the matter between them. They have been unable to do so and I am now in receipt of memorandum from both parties.

[3] I have considered the submissions made by the parties and I am satisfied that the discretion under clause 15 of Schedule 2 of the Act ought to be exercised in favour of Ms Heremia.

[4] The following principles are appropriate where the Authority is exercising its discretion in relation to costs (*PBO Ltd (formerly Rush Security Ltd) v Da Cruz*, [\[2005\] NZEmpC 144](#); [\[2005\] 1 ERNZ 808](#)):

- There is a discretion as to whether costs should be awarded and what amount;
- The discretion is to be exercised in accordance with principle;
- The statutory jurisdiction to award costs is consistent with the equity and good conscience jurisdiction of the Authority;
- Equity and good conscience is to be considered on a case by case basis;
- Costs are not to be used as a punishment or as an expression of disapproval of an unsuccessful party's conduct although conduct which increases costs unnecessarily can be taken into account in inflating or reducing an award;

- It is open to the Authority to consider whether all or any of the parties costs were unnecessary or unreasonable;
- That costs generally follow the event;
- That without prejudice offers can be taken into account;
- That awards will be modest;
- That frequently costs are judged against a notional daily rate;
- The nature of the case can also influence costs and this has resulted in the Authority ordering that costs lie where they fall in certain circumstances.

[5] Ms Heremia was legally aided. On Ms Heremia's behalf, Ms Alchin seeks an award of between \$4,000 and \$5,000. There is no evidence or other documentation from Ms Heremia to show what her grant of legal aid was, or what the actual costs incurred were. Therefore, I have no basis on which to assess whether an award of between \$4,000 or \$5,000 is appropriate.

[6] The investigation meeting took one day and was not overly complex, however, there were a large number of documents produced to the Authority by the respondent which from my experience, took a lot of time to scrutinise and examine as part of my preparation for the investigation meeting.

[7] Wilding International Ltd is required to pay to Ms Heremia the sum of \$3,000 including disbursements as a reasonable contribution to costs.

[8] An order is made accordingly.

Vicki Campbell

Member of the Employment Relations Authority

NZLII: [Copyright Policy](#) | [Disclaimers](#) | [Privacy Policy](#) | [Feedback](#)

URL: <http://www.nzlii.org/nz/cases/NZERA/2007/731.html>