

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 296A/10
5165109

BETWEEN WAYNE HOLMES
 Applicant

AND NEW ZEALAND
 INDUSTRIAL ABSEILERS
 LIMITED
 Respondent

Member of Authority: Vicki Campbell

Representatives: Rose Alchin for Applicant
 Roger Clark for Respondent

Submissions Received: 21 July 2010 from Applicant
 9 August 2010 from Respondent

Determination: 19 October 2010

COSTS DETERMINATION OF THE AUTHORITY

[1] Mr Holmes raised five matters in his application before the Authority, all of which were found in favour of Mr Holmes. The hearing took one day and was not overly complex.

[2] In my determination AA 296/10 dated 23 June 2010 I reserved the question of costs and invited the parties to resolve the matter between them

[1] I have read carefully the submissions from both parties with respect to the issue of costs. Mr Holmes' total costs in this matter were \$7,500 plus GST. Mr Holmes seeks a contribution in the sum of \$5,500.00 which is opposed by New Zealand Industrial Abseilers Limited.

[2] The principles appropriate to the exercise of the Authority's discretion in relation to costs are set out in *PBO Ltd (formerly Rush Security Ltd) v Da Cruz*¹. Costs will

¹ [2005] 1 ERNZ 808.

generally follow the event and awards will be modest. However, in exercising its discretion to award costs the Authority is required to first consider with the costs incurred by Mr Holmes were reasonable in all the circumstances. The consideration as to reasonableness has been made difficult due the Authority have no details of the breakdown of how the costs were incurred.

[3] I have concluded that based on other similar cases I have determined in the Authority and the length of the hearing it appears that the actual costs incurred by Mr Holmes are reasonable. Counsel are reminded that providing copies of invoices for completed work with submissions goes a long way to assisting the Authority in determining the reasonableness of costs incurred by their clients.

[4] Having regard to the nature and length of the investigation meeting and in the principled exercise of my discretion **I order New Zealand Industrial Abseilers Limited to pay to Mr Holmes the amount of \$3,500 as costs.**

Vicki Campbell
Member of Employment Relations Authority