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I v C (Auckland) [2007] NZERA 145 (18 June 2007)

IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND

AA 138A/07 5050728

BETWEEN

AND

MR I

Applicant

MR C

Respondent

Member of Authority: Representatives:

Determination:

Leon Robinson

Bryce Quarrie for Applicant Megan Richards for Respondent

18 June 2007

DETERMINATION OF THE AUTHORITY

[1] There is an order prohibiting the publication of the names of these parties. By a Determination dated 3 May 2007, I resolved the employment relationship problem between them by formal orders in the applicant Mr I's favour. Mr I now asks the Authority to order that Mr C pay his costs because the parties have been unable to resolve the matter informally between them.

[2] Mr Quarrie advises that Mr I's costs attributable to the Authority's investigation are in the sum of \$8,560.00 inclusive of GST. Mr Quarrie submits that none of these costs were unnecessary or unreasonable.

[3] Ms Richards submits that any way of costs to the applicant ought to be minimal and substantially reduced for contribution. It is further submitted that it is appropriate to award at the lower end of the Authority's daily tariff but reduced by contribution.

[4] The exercise of my discretion calls for a determination of what is a fair and reasonable contribution as between the parties. The Authority adopts a principled approach taking into account relevant matters and having no regard for irrelevant ones. Costs in the Authority are modest and a daily tariff has operated both of which are consistent with the objectives which establish the Authority.

[5] The investigation meeting proceeded over one day. The lawyers assisted the Authority by preparing an agreed statement of facts. The Authority is grateful for the assistance received by the representatives.

[6] Mr I is to be regarded as the successful party because he succeeded in obtaining a resolution of the problem in his favour. As the successful party, he shall have a contribution to his costs.

[7] It is correct that Mr I's remedies were reduced by 20%. But I decline to reduce any costs award to him for contribution. I do not agree that an award of costs is a "remedy" as that term is described in [section 124](#) of the [Employment Relations Act 2000](#) ("the Act"). That section permits reduction in "remedies" for personal grievances. I do not consider that a costs award is a remedy to be reduced.

[8] I am not persuaded to depart from the Authority's daily tariff approach. Accordingly, exercising my discretion on a principled basis, I conclude a contribution of \$3,000.00 is appropriate. **I order Mr C to pay to Mr I the sum of \$3,000.00 as a contribution to costs.**

Leon Robinson

Member of Employment Relations Authority

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