

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Jafa Café Services Limited (Applicant)(Counterclaim Respondent)

AND Ivy Rossiter (Respondent)(Counterclaim Applicant)

REPRESENTATIVES John Rakich for Jafa Café Services Limited
Rachel Oldham, Counsel for Ivy Rossiter

MEMBER OF AUTHORITY Leon Robinson

DATE OF DETERMINATION 15 February 2005

DETERMINATION OF THE AUTHORITY

[1] Mr Rakich of Jafa Café Services Limited applies to the Authority to re-open investigations AEA187/04 and AEA267/04 in relation to costs. The application follows a Determination as to Costs dated 1 November 2004 in which Jafa Café Services Limited was ordered to pay to its former employee Ms Ivy Rossiter the sum of \$1,500.00 as a contribution to her costs.

[2] The application is supported by a tax invoice from Employers Assistance Limited dated 23 September 2004 in the sum of \$2,458.13 (inclusive of GST). It is the GST exclusive portion of \$2,185.00 which is relevant.

[3] The said tax invoice is now provided because in the earlier Determination as to Costs I said:-

Jafa Café instructed Employer's Assistance Limited the day before the Investigation Meeting. That advocacy firm represented Jafa Café at the Investigation Meeting and tendered written submissions for the Authority's consideration. Mr Rakich says the company's costs are \$2,500.00. I am not prepared to accept that bare statement without verification and having regard to the extent of Employer's Assistance Limited's involvement as I have described it herein I decline to make an award of costs in Jafa Café's favour.

[4] Mr Rakich for Jafa Café Services Limited is not a professional advocate. He may not have appreciated the need to verify the statements he made in respect of costs. It would be unduly harsh not to have regard to the now substantiated costs incurred by Jafa Café Services Limited and in the interests of fairness, I am persuaded that I ought to re-consider the matter. I grant the application to re-open the said investigations in respect of costs.

[5] Both parties must now submit memoranda if they wish to be heard on the substantiated costs incurred by Jafa Café Services Limited as I reconsider costs and should do so by 4.00 pm on Wednesday 23 February 2005. I shall re-issue a Supplementary Determination as to Costs having considered any further submissions lodged.

[6] There will be no order as to costs in respect of this application.

Leon Robinson
Member of Employment Relations Authority