

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH OFFICE**

BETWEEN Christopher Jarden (Applicant)
AND G C Smith Contracting Limited (Respondent)
REPRESENTATIVES Peter Wetherall, Counsel for Applicant
Neil McPhail, Advocate for Respondent
MEMBER OF AUTHORITY Philip Cheyne
SUBMISSIONS RECEIVED 30 June 2005 from the applicant
None from the respondent
DATE OF DETERMINATION 5 August 2005

COSTS DETERMINATION OF THE AUTHORITY

[1] In a determination dated 7 February 2005, I upheld Mr Jarden's claim of unjustified dismissal and a further claim in respect of arrears of wages. Costs were reserved.

[2] On 30 June 2005, counsel for Mr Jarden lodged a memorandum setting out a claim for costs. The memorandum was sent to the respondent's representative who later indicated some difficulty in contacting the respondent's principal. A further period of time was provided to give the respondent a chance to provide any reply to the claim for costs. The time indicated has now gone past and nothing more has been heard from the respondent. This determination deals with the claim for costs.

[3] Counsel for Mr Jarden seeks costs and disbursements of \$1,947.50. However, the Authority has not been given any indication of the actual legal costs incurred by Mr Jarden.

[4] The usual approach of the Authority is to award a successful party a reasonable contribution to their costs reasonably incurred in participating in the investigation process. I see no reason to depart from that approach in this case.

[5] This matter took somewhat less than a full day for the investigation meeting. However, more time than might usually be indicated by that would have been required of counsel because of the poor state of the respondent's time and wage records which had to be assessed for the arrears of wages claim. There was also a significant amount of documentation presented by the respondent in support of its argument that Mr Jarden falsified his time sheets. That required some time and effort

to assess. In those circumstances, I find that an appropriate award to cover costs and disbursements is \$1,750.00 and I order the respondent to pay that sum to the applicant.

Philip Cheyne
Member of Employment Relations Authority