

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

CA 158A/09
5086989

BETWEEN SHARON JOHNSON
 Applicant

AND NEW ZEALAND RACING
 BOARD
 Respondent

Member of Authority: Vicki Campbell

Representatives: David Beck for Applicant
 Megan Richards for Respondent

Submissions Received: 14 & 29 October 2009 from Applicant
 27 October 2009 from Respondent

Determination: 11 November 2009

COSTS DETERMINATION OF THE AUTHORITY

[1] The Applicant, Ms Johnson was successful in her personal grievance claim of unjustified disadvantage. In a determination dated 18 September 2009 I concluded that the New Zealand Racing Board (NZRB) had failed to undertake a full and fair investigation into complaints raised by Ms Johnson during her employment. I found that NZRB had failed to properly address Ms Johnsons' concerns and communicate any outcomes.

[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] 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. These

¹ [2005] 1 ERNZ 808.

include a notional daily tariff in the calculation of costs. Costs will generally follow the event and awards will be modest.

[4] The investigation into Ms Johnsons' employment relationship problem took two full days.

[5] Ms Johnson was granted legal aid in respect of this matter. She now seeks full indemnity costs in the amount of \$5,169.00. This was the extent of legal aid available to Ms Johnson. No copies of any invoices have been provided to the Authority, I am therefore unable to ascertain the reasonableness of the actual costs incurred.

[6] NZRB submits it was put to unnecessary costs as a result of the failure by Ms Johnson to comply with Directions from the Authority. In particular Ms Johnson was directed to lodge an amended statement of problem to provide clarity for the NZRB and the Authority to fully and fairly inform them of the problems Ms Johnson wished to have resolved.

[7] Taking into account the preparation required and the length of the hearing and the extent to which Ms Johnson was successful the New Zealand Racing Board is required to contribute \$3,000 to Ms Johnson's legal costs.

[8] An order is made accordingly.

Vicki Campbell
Member of Employment Relations Authority