

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Jared Johnstone (Applicant)
AND Morrissou Bar Limited (Respondent)
REPRESENTATIVES Blair Edwards for applicant
No appearance for respondent
MEMBER OF AUTHORITY Janet Scott
SUBMISSION RECEIVED 26 September 2005 (Applicant)
DATE OF DETERMINATION 19 October 2005

COSTS DETERMINATION OF THE AUTHORITY

The applicant brought two claims to the Authority - one for arrears of wages and holiday pay owed and claims of unjustified disadvantage and unjustified dismissal. The applicant was successful in respect of all the claims brought by him.

The applicant seeks reasonable costs in the matter and submits that an award in the sum of \$5000 is appropriate in the circumstances.

The respondent made no appearance in respect of the substantive application heard and determined by the Authority and has made no submissions on this costs application.

Discussion

The power to award costs is contained in the Second Schedule of the Employment Relations Act 2000. The general principles to be applied in cost applications are set out, in case law including *NZALPA v Registrar of Unions* (1989) NZILR,550, *Okeby v Computer Associates (NZ) Limited* [1994] 1 ERNZ 613 and *Reid v New Zealand Fire Service Commission* [1995] 2 ERNZ 38. The criteria to be taken into account include the importance of the case to the parties, the way the case was conducted, the conduct of the parties at the hearing, the amount of time required for effective preparation over and above that which would ordinarily be inferred, whether arguments lacking in substance were advanced or whether unduly legalistic and technical points were taken and the actual costs incurred.

Determination

In determining this matter I have had regard to the legal principles guiding the award of costs. I have also had regard to the submissions of the parties and the fact the hearing itself occupied somewhat less than half a day.

Costs follow the event. It is appropriate in this case that costs be set on the basis of a reasonable contribution taking into account the general level of costs awarded by the Authority.

I therefore direct the respondent to pay to the applicant the sum of \$1500 as a reasonable contribution to costs incurred by him in bringing his claims to the Authority.

Janet Scott
Member of Employment Relations Authority