

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2015] NZERA Auckland 255
5535138

BETWEEN

ROZALIND JONES
Applicant

A N D

PALMCO GARDEN LIMITED
Respondent

Member of Authority: Rachel Larmer

Representatives: Belinda Robinson, Advocate for the Applicant
Mike Wright, Employee of the Respondent

Investigation Meeting: On the papers

Submissions: 21 July 2015 from Applicant
18 August 2015 from Respondent

Determination: 21 August 2015

COSTS DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] In a determination dated 14 July 2015 the Authority held that Ms Rozalind Jones had been unjustifiably dismissed by Palmco Garden Limited (Palmco).¹ Ms Jones as the successful party is entitled to a contribution towards her actual legal costs.

[2] The parties were encouraged to resolve costs by agreement but that has not occurred. Ms Jones now seeks a costs order in her favour.

Costs claimed

[3] Ms Jones claims costs of \$8,050. This includes \$3,500 for mediation. Mediation costs cannot be claimed in respect of Authority costs. For the purposes of

¹ [2015] NZERA Auckland 206.

determining costs in the Authority I find that Ms Jones actually incurred \$4025 in respect of the Authority proceedings.

[4] If Ms Jones intends to claim indemnity costs (as appears to be the case) then I find this is not a suitable case for indemnity costs to be awarded.

[5] Palmco seeks that costs should lie where they fall. I do not accept that is appropriate either. Ms Jones as the successful party is entitled to a contribution towards her actual costs.

Costs incurred

[6] I am satisfied upon production of GST invoices that Ms Jones has incurred total costs of \$8,050. This amount includes \$3,500 for mediation which is not recoverable in the Authority. I therefore find that Ms Jones incurred actual costs of \$4025 in respect of her successful Authority proceedings.

Assessment of costs

[7] The principles relating to costs in the Authority are so well established I do not need to set them out here.

[8] The Authority will assess costs based on its usual notional daily tariff based approach. The notional daily tariff is currently \$3,500. This matter involved a one and a half hour investigation meeting so the notional starting tariff on a pro rata basis is \$750.

[9] The Authority must then assess whether there are any factors that warrant adjusting the notional starting tariff to reflect the particular circumstances of this case. I find that there are not. Accordingly I am not satisfied that it is appropriate to adjust the notional starting tariff.

Orders

[10] Within 28 days of the date of this determination Palmco is ordered to pay MS Jones \$750 towards her actual costs plus \$71.56 to reimburse her for her filing fee.

Rachel Larmer
Member of the Employment Relations Authority

