

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Maureen Joynt (Applicant)
AND Board of Trustees, Manukau View School (Respondent)
REPRESENTATIVES Patricia Cole, Advocate for Applicant
Debra Law, Counsel for Respondent
MEMBER OF AUTHORITY Y S Oldfield
SUBMISSIONS RECEIVED AND CONSIDERED 19 September 2001
DATE OF DETERMINATION 4 October 2001

DETERMINATION OF THE AUTHORITY ON COSTS

In a determination dated 22 August 2001 I invited the parties to agree costs in this matter. They have been unable to do so and Ms Law, for the successful respondent party, now requests that I make a determination of the issue. She has provided a memorandum in support of this request and attached correspondence from Ms Cole setting out the applicant's position on the issue. Ms Cole has confirmed to the Authority that this correspondence will suffice as her client's submission for my consideration.

Ms Law says that the actual costs incurred by the respondent were \$6,306.00 and that they seek a contribution towards this of \$3,000.00. She says that the hearing occupied in excess of half a day followed by comprehensive legal submissions. She says that the case warrants a higher than usual award because Ms Joynt pursued an unmeritorious claim. She describes the claim in this way because two separate agreements had previously been expressed to be in full and final settlement of her dispute.

I agree that the meeting took a little over a half-day. The facts were not greatly in dispute and this assisted in keeping the length of the investigation meeting to a minimum. I also agree that this is a case where there is some justification for an award a little higher than usual for a half day meeting. The case was one where legal issues had to be canvassed, which I accept must have impacted on the time Counsel needed to spend in preparation.

I do not intend, however, to make an award at the level sought. Ms Cole has explained that the applicant is in very straitened financial circumstances. She is not currently teaching for the reasons set out in my determination, and although she is working, her income is low. Costs awards must not be punitive in nature, and I consider an award of the level sought by the respondents would be punitive in Ms Joynt's circumstances.

For all these reasons, I order Ms Joynt to pay to the respondent the sum of \$1,200.00 as a contribution to its costs.

I note that Ms Cole has already raised with the respondent the possibility that Ms Joynt could pay off any costs order in instalments. I recommend that this suggestion is explored.

Y S Oldfield
Member of Employment Relations Authority