



# New Zealand Employment Relations Authority Decisions

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## King v New Zealand Steel Limited AA202A/10 (Auckland) [2010] NZERA 650 (10 August 2010)

Last Updated: 8 November 2010

IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND

AA 202A/10 5297076

BETWEEN

CHARLES KING Applicant

AND

NEW ZEALAND

LIMITED

Respondent

STEEL

Member of Authority:

Alastair Dumbleton

Submissions Received 21 May 2010, from Respondent

Determination: 10 August 2010

### COSTS DETERMINATION OF THE AUTHORITY

[1] An application for costs in relation to the Authority's investigation of this matter has been made by the respondent New Zealand Steel Ltd. The application follows from and is made in accordance with directions given in a determination of the Authority dated 30 April 2010 (under AA202/10).

[2] The Authority investigated a personal grievance raised by Mr Charles King who had complained that his dismissal from employment with the company was not justifiable. The Authority determined that the dismissal was justifiable and that Mr King had no personal grievance of any kind.

[3] No response to the application for costs has been received by the Authority from Mr King or his representative, the New Zealand Engineering, Printing & Manufacturing Union (EPMU). Possibly Mr King or his union considers that the challenge brought against the Authority's determination and yet to be determined makes it unnecessary to respond in the Authority to the costs application. The opportunity to do so was nevertheless given.

[4] The investigation meeting took nearly two days. In that time the evidence of a number of witnesses was taken and examined and counsel, Ms McInally and Mr Skelton, gave comprehensive submissions orally and in writing. The evidence was necessarily detailed and technical.

[5] In submissions with respect to costs Mr Skelton has sought an order on the basis that costs in this case should follow the outcome of it, which was in favour of his client, and that costs awards in the Authority are frequently assessed against a notional daily rate. He submits that there are no unusual features in this case calling for a departure from that normal

approach.

[6] New Zealand Steel Ltd seeks an award of \$5,000 from Mr King, which amount it considers to be a modest contribution to its actual legal costs incurred by taking part in the Authority's investigation.

[7] I agree that for a case of this kind which was able to be efficiently investigated with the co-operation of counsel and witnesses the notional daily rate approach is appropriate. I consider that \$5,000 in this case is a moderate but realistic amount for a two day investigation and should be awarded.

[8] Mr Charles King is therefore ordered to pay \$5,000 to New Zealand Steel Ltd in costs, pursuant to clause 15 of Schedule 2 of the [Employment Relations Act 2000](#).

A Dumbleton

**Member of the Employment Relations Authority**

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