



Employment Court of New Zealand

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Liu v South Pacific Timber (1990) Limited [2014] NZEmpC 51 (28 March 2014)

Last Updated: 4 April 2014

IN THE EMPLOYMENT COURT AUCKLAND

[\[2014\] NZEmpC 51](#)

ARC 65/11

IN THE MATTER OF a challenge to a determination of the

Employment Relations Authority

AND IN THE MATTER of costs

BETWEEN NANZHENG LIU Plaintiff

AND SOUTH PACIFIC TIMBER (1990) LIMITED

Defendant

Hearing: On the papers received on 24 February and 19 March 2014

Judgment: 28 March 2014

COSTS JUDGMENT OF JUDGE CHRISTINA INGLIS

[1] The plaintiff pursued an unsuccessful personal grievance against the defendant in the Employment Relations Authority (the Authority).¹ The plaintiff challenged the whole of the Authority's determination and sought a hearing de novo. The defendant subsequently applied for security for costs and a stay. That application was granted and costs on it were reserved.²

[2] The plaintiff did not pay security for costs within the timeframe for doing so and an application to strike out the challenge was accordingly filed. The application was granted.³

[3] The parties were invited to agree costs but that has not proved possible.

¹ ERA Auckland AA392/10, 30 August 2010.

² [\[2012\] NZEmpC 129](#).

³ [\[2014\] NZEmpC 6](#).

[4] The defendant seeks a contribution to its costs. The plaintiff was invited to file a memorandum in response but has not done so.

[5] The conventional approach to assessing costs in this Court is to take a starting point of two thirds of the costs actually and reasonably incurred and to then adjust that up or down according to the circumstances of the case.

[6] According to the invoices appended to the defendant's application for costs, the actual costs incurred by it total \$19,502, GST exclusive, together with disbursements of \$1,188.60. The defendant seeks a contribution of two thirds of its actual costs, and disbursements.

[7] I accept that the costs actually incurred by the defendant were \$19,502. The question then is the extent to which those costs were reasonable. A number of steps were required in these relatively long-running proceedings, as detailed in the

invoice narrations filed in support of the application. I am satisfied that the claimed costs were within the range of what would be regarded as reasonable having regard to the attendances required on the defendant's behalf.

[8] I am not aware of any matters that would warrant a departure from the usual approach to costs in the circumstances of this case. The plaintiff is ordered to pay the defendant the sum of \$13,000 by way of contribution to its costs. I also allow disbursements, amounting to \$1,188.60, as being necessary and specific to the litigation.

Christina Inglis

Judge

Judgment signed at 10 am on 28 March 2014

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