

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH OFFICE**

[2013] NZERA Christchurch 46
5372653

BETWEEN JACINTA LOWE
Applicant

AND GEORGE WESTON FOODS
(NZ) LIMITED
Respondent

Member of Authority: Christine Hickey

Representatives: Jacinta Lowe in person
Jane Latimer, counsel for Respondent

Submissions received: 28 January 2013, from the applicant
14 February 2013, from the respondent

Determination: 4 March 2013

COSTS DETERMINATION OF THE AUTHORITY

A. George Weston Foods (NZ) Limited to pay Jacinta Lowe \$475.26 as reimbursement for the disbursements she incurred.

[1] In a determination dated 21 December 2012 the Authority found that Ms Lowe was unjustifiably dismissed and awarded her 8 weeks of lost remuneration and \$6,000 in compensation.

[2] Ms Lowe has applied for costs of \$2289.97 in total. The claimed costs are made up of:

- a. disbursements of \$475.26, which include the Authority filing fee and travel costs for Ms Lowe and Mr Derriman to the investigation meeting,
- b. \$319.71 being the cost to Ms Lowe and Mr Derriman of a day off work each to attend the investigation meeting,

- c. \$1495 for legal advice and representation obtained up to and including mediation.

[3] The power of the Authority to award costs arises from Clause 15 of Schedule 2 of the Employment Relations Act 2000 which states:

(1) The Authority may order any party to a matter to pay to any other party such costs and expenses (including expenses of witnesses) as the Authority thinks reasonable.

(2) The Authority may apportion any such costs and expenses between the parties or any of them as it thinks fit, and may at any time vary or alter any such order in such manner as it thinks reasonable.

[4] The general principle is that the successful party is entitled to a reasonable contribution to their legal costs actually incurred. Costs are awarded at the discretion of the Authority.

[5] Ms Lowe was not legally represented at the investigation meeting. Therefore she has not incurred any legal costs associated with the meeting.

[6] It is a well established principle in the Authority that parties bear their own costs related to mediation. That is based on the policy that there is some public good in attempting to resolve matters by way of agreement relatively early and relatively inexpensively. Therefore, I do not award Ms Lowe any of her legal costs.

[7] The only other type of costs that are awarded by the Authority are 'out of pocket expenses', or disbursements. The cost to Ms Lowe and Mr Derriman of time off work does not fall into that category and therefore I decline to award the amount sought for days off work.

[8] The respondent has submitted that it should pay the full amount of disbursements sought being \$475.26. That is what I consider must be paid. I note that Ms Latimer has said that the amount will be paid within seven days of this determination.

Christine Hickey

Member of the Employment Relations Authority