

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2012] NZERA Auckland 96  
5359587

BETWEEN

MARTIN MA  
Applicant

AND

DOLCHE DESIGN LIMITED  
First Respondent

CLOUD TWELVE LIMITED  
(formerly 4U WEB DESIGN  
LIMITED  
Second respondent

Member of Authority: R A Monaghan

Representatives: M Moncur, advocate for applicant  
B Suess, advocate for respondent

Memoranda received: 12 March 2012 from applicant

Determination: 14 March 2012

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**COSTS DETERMINATION OF THE AUTHORITY**

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[1] In a determination dated 17 February 2012 I found Mr Ma was dismissed unjustifiably by his former employer, Cloud Twelve Limited (formerly 4U Web Design Limited), and that he was owed unpaid wages.

[2] Costs were reserved, and the applicant has filed a memorandum seeking costs. The respondents advised that they are no longer trading and do not wish to reply to the request for costs.

[3] Ms Moncur sought a contribution to costs in the sum of \$2,500, citing the principles in *PBO Limited v da Cruz*<sup>1</sup>. The applicant was the successful party, except to the extent he sought to argue Dolche Design Limited (DDL) was his employer, and is entitled to a contribution to his costs.

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<sup>1</sup> [2005] ERNZ 808.

[4] I apply the notional daily rate approach discussed in *da Cruz*. The investigation meeting took slightly over one half day, so that with reference to a notional daily rate of \$3,500 the starting point is \$1,750. I reduce this amount to reflect the unsuccessful attempt to argue that DDL was the employer, and order Cloud Twelve Limited to contribute to Mr Ma's costs in the sum of \$1,500.

[5] Cloud Twelve Limited is further ordered to reimburse Mr Ma for the filing fee of \$71.56.

R A Monaghan

Member of the Employment Relations Authority