

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

AA59B/08  
5098470

BETWEEN	KIM MACDONALD Applicant
AND	TRACY GIFKINS First Respondent
AND	GREY LYNN VETERINARY CLINIC LIMITED Second Respondent

Member of Authority: Robin Arthur

Representatives: Glenn Finnigan for Applicant  
Garry Pollak for Respondent

Determination: 28 October 2008

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**COSTS DETERMINATION OF THE AUTHORITY**

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[1] Kim Macdonald seeks costs on two matters in which she has succeeded in the Authority. Determination AA 59/08 (22 February 2008) ordered Tracy Gifkins to pay compensation, lost wages and outstanding holiday pay to Ms Macdonald. Determination AA 59A/08 (9 September 2008) declined Ms Gifkin's application for the investigation to be reopened.

[2] Following the first determination Ms Macdonald sought \$3000 costs plus reimbursement of her lodgement fee. Her actual costs to that point were said to be \$7114 plus disbursements of \$133.

[3] For responding to the reopening application Ms Macdonald had a grant of legal aid. Her solicitor's tax invoice to the Legal Service Agency for work on that matter totalled \$1674.13.

[4] The Respondents were given an opportunity to lodge a reply memorandum on costs but have not done so.

[5] I accept \$3000 is an appropriate sum to award in costs for preparation and attendance required for the investigation meeting held on 8 February. Although Ms Gifkins did not attend, the meeting took a half day with Ms Macdonald answering from the Authority and Mr Finnigan providing submissions. Additional costs were also incurred before the meeting because Ms Gifkins' failed – contrary to Authority directions – to attend mediation and to lodge witness statements.

[6] Ms Gifkins is also to reimburse Ms Macdonald's lodgement fee of \$70.

[7] Although Ms Macdonald had a grant of legal aid to assist her response to the reopening application, I may still award costs. How that is then accounted for between her and the Legal Services Agency is a matter for them to resolve.

[8] The reopening application was dealt with on the papers but required counsel to make a detailed analysis of background documents, including a large file from solicitors previously acting for Ms Gifkins. In light of that and the submissions lodged for Ms Macdonald, I consider an award of an additional \$1000 should be made as a contribution to Ms Macdonald's reasonably incurred costs.

[9] Ms Gifkins is to pay the total sum of \$4000 as a contribution to costs incurred by Ms Macdonald in this matter and a further \$70 in reimbursement of her lodgement fee.

Robin Arthur  
Member of the Employment Relations Authority