

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

[2015] NZERA Christchurch 134
5549853

BETWEEN ANGUS MACDONALD
 Applicant

AND INTEREX LIMITED
 Respondent

Member of Authority: Christine Hickey

Representatives: Tanzam Hossain, Advocate for the applicant
 Tim McGinn, Counsel for the respondent

Costs submissions 16 July 2015 from the respondent
received: No submissions from the applicant

Determination: 11 September 2015

COSTS DETERMINATION OF THE AUTHORITY

Angus MacDonald is to pay Interex Limited \$1,750 in costs within 28 days of this determination.

[1] On 16 July 2015 I delivered an oral determination on the preliminary matter of whether Mr MacDonald had raised his personal grievance within 90 days of his dismissal. I determined that he had not. That has the effect that he is unable to bring his personal grievance claims to the Authority.

[2] Originally I had hoped to determine the matter on the papers without having to hold an investigation meeting. However, after receiving written statements from Ms Bickerton and Mr Lilleyman I considered that I needed to be able to ask them questions about their evidence respectively of writing and sending the letter purporting to raise the grievances and of receiving the letter.

[3] A brief meeting was held on 16 July 2015 with Ms Hossain and Ms Bickerton attending by video conference and Mr McGinn and Mr Lilleyman attending in person.

[4] The meeting took less than half a day, including when we reconvened in the afternoon by telephone for the delivery of my determination. Mr McGinn seeks costs that are equivalent to a half day hearing on the basis that he had to prepare witness evidence and written submissions in advance of the investigation meeting as well as attend the meeting. I have had no submissions from Mr MacDonald's advocate. Ms Hossain indicated on 30 July 2015 that none would be filed.

[5] The Authority's jurisdiction to make costs orders is found in clause 15 of Schedule 2 of the Act. The principles the Authority follows in considering costs applications are as set out in *PBO Limited v Da Cruz*¹ which approach was recently upheld by the Employment Court in *Faggoti v Acme & Co Ltd*².

[6] These principles include that awards of costs generally follow the event; that is, the successful party's costs are likely to be ordered paid by the unsuccessful party. Costs will be modest and frequently costs are judged against a notional daily rate, which is currently \$3,500.00.

[7] Interex is the successful party and as such it is reasonable that Mr MacDonald contribute a modest and reasonable amount to its legal costs.

[8] In all the circumstances I consider that it is reasonable that Mr MacDonald pay Interex Limited a contribution of \$1,750 towards its legal costs.

Christine Hickey
Member of the Employment Relations Authority

¹ [2005] ERNZ 808, a judgment of the Full Court of the Employment Court, at page 819

² [2015] NZEmpC 135