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Main v Interior Developments Limited (Auckland) [2007] NZERA 161 (18 July 2007)

IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND

AA 161 A/07 503 9125

BETWEEN

AND

Amigo Main. Applicant

Interior Developments Limited. Respondent

Member of Authority: Representatives:

Ken Raureti

Ken Nicolson for Applicant

Submissions received:

Determination:

22 June 2007 from Applicant

No submissions received from Respondent

18 July 2007

COSTS DETERMINATION OF THE AUTHORITY

[1] A determination of this matter was issued on 30 May 2007. Mr Main was successful in his unjustifiable dismissal claim. Costs were reserved and the parties were requested to attempt to resolve the issue between them. They have been unable to resolve the matter. Mr Main now seeks a contribution towards the costs he has incurred.

[2] Mr Nicolson's submissions indicate that Mr Main has incurred actual costs of \$6,550.00. He is seeking \$5,200.00 as a reasonable contribution towards those costs. No breakdown of how the costs have been incurred has been provided to the Authority.

[3] I have had regard for Mr Nicolson's submissions. No submissions have been received from the respondent. The Authority's discretion to award costs is set out in Clause 15 of the Second Schedule of the [Employment Relations Act 2000](#). The

principles guiding the Authorities discretion are set out in *PBO Ltd (formerly Rush Security Ltd) v Da Cruz*

- There is a discretion as to whether costs should be awarded and what amount;

- • The discretion is to be exercised in accordance with principle;
 - • The statutory jurisdiction to award costs is consistent with the equity and good conscience jurisdiction of the Authority;
- • Equity and good conscience is to be considered on a case by case basis;
 - • Costs are not to be used as a punishment or as an expression of disapproval of an unsuccessful party's conduct although conduct which increases costs unnecessarily can be taken into account in inflating or reducing an award;
 - • It is open to the Authority to consider whether all or any of the parties costs were unnecessary or unreasonable;
- • That costs generally follow the event;
- • That without prejudice offers can be taken into account;
- • That awards will be modest;
- • That frequently costs are judged against a notional daily rate;
 - • The nature of the case can also influence costs and this has resulted in the Authority ordering that costs lie where they fall in certain circumstances.

[4] Mr Main succeeded in his personal grievance claim; it was a relatively straightforward uncomplicated matter. It is appropriate that costs should follow the event therefore he is entitled to a contribution toward his costs. Costs awards in the Authority are modest. In exercising the Authority's discretion to award costs, Interior Developments Limited is ordered to pay Mr Main \$1500.00 as a contribution towards the costs he has incurred.

Ken Raureti

Member of the Employment Relations Authority

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