

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON OFFICE**

BETWEEN Michael John Mark (Applicant)
AND Power Farming (Wholesale) Limited (Respondent)
REPRESENTATIVES Graeme Gowland for Applicant
Mark Hammond for Respondent
MEMBER OF AUTHORITY G J Wood
INVESTIGATION 19 May 2005
MEETING
DATE OF 31 May 2005
DETERMINATION

COSTS DETERMINATION OF THE AUTHORITY

1. In my substantive determination I found that Mr Mark had raised his personal grievance with Power Farming Wholesale Ltd (Power Farming) within 90 days and that he had a claim for unjustified dismissal/disadvantage for the way his redundancy was handled. I dismissed his claims under the Fair Trading Act 1986. I ordered Power Farming to pay Mr Mark the sum of \$9,000 in compensation.
2. On behalf of Mr Mark, Mr Gowland seeks full costs of \$6,200 plus GST and disbursements of \$250. On behalf of Power Farming, Mr Hammond submitted that as the claims for non-genuine redundancy and misrepresentation were dismissed and the 90 day claim resulted in part by Mr Mark and Mr Gowland's (in)actions, then costs should be reduced by half.
3. Other than the 90 day issue, this was in many ways a standard investigation, although the particular fact circumstances were unusual in that Mr Mark's employment lasted only three weeks before he was made redundant. The 90 day issue was defended by Power Farming even although they were unable to call any witnesses to dispute Mr

Mark's claim, which I accepted, that he had raised his concerns directly to Power Farming management at the time.

4. Another factor to be taken into account is that compensation awarded to Mr Mark only just exceeds his costs.
5. In all the circumstances, I consider that a costs award in the sum of \$3,000 plus disbursements of \$250 is appropriate. I therefore order the respondent, Power Farming (Wholesale) Limited, to pay to the applicant, Michael John Mark, the sum of \$3,000 as a contribution to his costs, plus \$250 in disbursements.

G J Wood
Member of Employment Relations Authority