

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

**[2014] NZERA Auckland 313  
5433938**

BETWEEN                      KRISTAPS MAULVURFS  
   Applicant  
  
AND                                TURNCO ENGINEERING  
   LIMITED  
   Respondent

Member of Authority:        Eleanor Robinson  
  
Costs Submissions            None from Applicant  
   2 July 2014 from Respondent  
  
Determination:                17 July 2014

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**COSTS DETERMINATION OF THE AUTHORITY**

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[1] By determination [2014] NZERA Auckland 229 the Authority found that the Applicant, Mr Kristaps Maulvaufs, had not been unjustifiably dismissed by the Respondent Turnco Engineering Limited (Turnco), but that he had been justifiably dismissed as a result of a redundancy situation.

[2] In that determination costs were reserved in the hope that the parties would be able to settle this issue between them. Unfortunately they have been unable to do so, and the Respondent has filed submissions in respect of costs.

[3] This matter involved approximately three quarters of an Investigation Meeting. Turnco is now seeking costs in the sum of \$3,500.00.

*Principles*

[4] The power of the Authority to award costs arises from Section 15 of Schedule 2 of the Employment Relations Act 2000 which states:

[5]

***15 Power to award costs***

*(1) The Authority may order any party to a matter to pay to any other party such costs and expenses (including expenses of witnesses) as the Authority thinks reasonable.*

(2) *The Authority may apportion any such costs and expenses between the parties or any of them as it thinks fit, and may at any time vary or alter any such order in such manner as it thinks reasonable.*

[6] Costs are at the discretion of the Authority, as observed by the current Chief Judge Colgan in *NZ Automobile Association Inc v McKay*<sup>1</sup>.

[7] The principles and the approach adopted by the Authority on which an award of costs is made are well settled and outlined in *PBO Limited (formerly Rush Security Ltd) v Da Cruz*<sup>2</sup>.

[8] It is a principle set out in *PBO Limited (formerly Rush Security Ltd) v Da Cruz*<sup>3</sup> that costs are modest. Costs are also reasonable as observed by the Court of Appeal in *Victoria University of Wellington v Alton-Lee*<sup>4</sup> at para [48] “*As to quantification, the principle is one of reasonable contribution to costs actually and reasonably incurred.*”

### **Determination**

[9] The normal rule is that costs follow the event and Turnco is entitled to a contribution to its costs.

[10] A tariff based approach is that usually adopted by the Authority, which has the discretion to raise or lower the tariff, depending on the circumstances. For a three quarter day investigation meeting this would normally equate to \$2,625.00.

[11] Accordingly, Mr Maulvaufs is ordered to pay Turnco the sum of \$2,625.00 as costs, pursuant to clause 15 of Schedule 2 of the Employment Relations Act 2000.

**Eleanor Robinson**  
**Member of the Employment Relations Authority**

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<sup>1</sup> [1996] 2 ERNZ 622

<sup>2</sup> [2005] 1 ERNZ 808

<sup>3</sup> [2005] 1 ERNZ 808

<sup>4</sup> [2001] ERNZ 305