

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2014] NZERA Auckland 134
5433389

BETWEEN

JAN MAZZOLA
Applicant

A N D

TILE TRENDS LIMITED
Respondent

Member of Authority: Anna Fitzgibbon

Representatives: Warwick Reid, Advocate for Applicant
Kerry Single, Advocate for Respondent

Submissions Received: 17 March 2014 from Applicant
03 April 2014 from Respondent

Date of Determination: 7 April 2014

COSTS DETERMINATION OF THE AUTHORITY

A. Tile Trends Limited is ordered to contribute \$3,500 towards Ms Mazzola's costs.

The substantive determination

[1] In a determination of the Authority dated 12 March 2014¹ the Authority determined that Ms Mazzola's dismissal by Tile Trends Limited (Tile Trends) was unjustified.

[2] Ms Mazzola having successfully brought a personal grievance claim was asked to file and serve a memorandum as to costs within 14 days of the date of the Authority's determination. Tile Trends was given 14 days from receipt of Ms Mazzola's memorandum as to costs to file its memorandum as to costs.

[3] A memorandum of costs was filed on behalf of Ms Mazzola seeking a contribution of \$3,500 towards her costs. It was submitted on behalf of Ms Mazzola

¹ [2014] NZERA Auckland 86

that the nature of the case and the time taken to present the case meant that it was appropriate for the Authority's normal daily tariff of \$3,500 to be awarded as a contribution towards Ms Mazzola's costs. Tile Trends filed a memorandum as to costs on 3 April acknowledging the applicant's request for costs at the nominal daily rate of \$3500 but pointing out that it too had incurred costs.

[4] The Authority's power to award costs arises from Schedule 2, clause 15 of the Employment Relations Act 2000 (the Act). This confers a wide discretion on the Authority to award costs, on a principled basis.

[5] The principles guiding the Authority's approach to costs are set out by the full Employment Court in *PBO Ltd (formerly Rush Security Ltd) v. Da Cruz*². Those principles are so well recognised I do not need to restate them.

[6] The general principle is that costs follow the event, and I see no reason to depart from that in this case. Accordingly, Ms Mazzola as the successful party is entitled to a contribution towards her costs.

[7] The Employment Court in *Carter Holt Harvey v. Eastern Bays Independent Industrial Workers Union and Ors*³ observed that a notional daily tariff approach, which was to be adjusted in a principled way, was best suited to the Authority's unique jurisdiction. I adopt that approach.

[8] The normal starting point for costs in the Authority is \$3,500 per day, *Fifita (aka Bloomfield) v. Dunedin Casinos Limited*⁴. This matter involved an investigation meeting of one full day. Ms Mazzola says the actual costs to bring her claim amounted to \$6,071.30 but seeks an order that Tile Trends pay the Authority's normal daily tariff of \$3,500 costs.

[9] Accordingly, I order Tile Trends to contribute \$3,500 towards the costs of Ms Mazzola.

Anna Fitzgibbon
Member of the Employment Relations Authority

² [2005] 1 ERNZ 808

³ [2011] NZEmpC

⁴ [2012] NZERA Christchurch 219