

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

CA 58A/09
5127711

BETWEEN EVA REBECCA
 MCCARTNEY
 Applicant

AND ROBBIES BAR & BISTRO
 LIMITED
 Respondent

Member of Authority: Philip Cheyne

Representatives: Anjela Sharma, Advocate for the Applicant
 Alan Roberts, Advocate for the Respondent

Submissions Received: 20 May 2009 from Applicant
 13 May 2009 from Respondent

Determination: 27 May 2009

DETERMINATION OF THE AUTHORITY

[1] In a determination dated 4 May 2009 I dismissed Ms McCartney's personal grievance claim and reserved the question of costs to be determined following an exchange of memoranda. I have now received these memoranda and this determination resolves the question of costs.

[2] The respondent succeeded in defending itself against Ms McCartney's personal grievance claim because no grievance was raised within time and the delay was not occasioned by exceptional circumstances.

[3] Mr Robert's claim is for travel costs of \$100.00 and motel expenses of \$160, a total of \$260. No invoices or receipts have been provided but I accept that Mr Roberts probably incurred travel and accommodation costs as a result of attending the investigation meeting in Nelson as he is based in Christchurch.

[4] The claim for costs is resisted by the applicant. Ms Sharma says that Ms McCartney cannot afford to meet any costs award against her. If the matter ended there, I would probably make an award in favour of Mr Roberts. However, Ms Sharma also points out that an earlier investigation meeting date was adjourned on the respondent's application which resulted in Ms McCartney wasting the costs of her own travel between Invercargill and Nelson. The adjournment application was perfectly proper because of the medical incapacity of the respondent's main witness but I accept that it did cause wasted cost to Ms McCartney. I am not told that amount but it is unlikely to be substantially less than the sum being claimed by Mr Roberts.

[5] In these circumstances the fairest course is to leave each party to bear their own costs and expenses. No order will be made.

Philip Cheyne
Member of the Employment Relations Authority