

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2014] NZERA Auckland 187  
5400484

BETWEEN                      BARBARA MCCONNELL  
   Applicant  
  
A N D                              BOARD OF TRUSTEES MT  
   ROSKILL GRAMMAR  
   SCHOOL  
   Respondent

Member of Authority:      TG Tetitaha  
  
Representatives:              T Oldfield, Counsel for Applicant  
   R Harrison/E McWatt, Counsel for Respondent  
  
Investigation Meeting:      On the papers  
  
Submissions:                  20 January 2014 from Respondent  
   30 January 2014 from Applicant  
  
Date of Determination:      14 May 2014

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**COSTS DETERMINATION OF THE AUTHORITY**

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**A.      The application for costs is dismissed.**

**Employment relationship problem**

[1]      The Authority in its substantive determination dated<sup>1</sup> dismissed the application for personal grievance and reserved costs.

[2]      The respondent seeks an award of costs greater than the tariff. Its actual costs were \$15,059.47 including GST and disbursements.

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<sup>1</sup>                      [2013] NZERA Auckland 561

## Issues

[3] The following issues are to be determined:

- a. What is the starting point for assessing costs?
- b. Are there any factors that warrant adjusting the notional daily tariff?

### **What is the starting point for assessing costs?**

[4] The correct approach to assessing costs in this matter is for the Authority to adopt its usual notional daily tariff based approach to costs.<sup>2</sup> The current notional daily tariff is \$3,500. This matter involved a two day investigation meeting. The starting point for assessing costs is therefore \$7,000.

### **Are there any factors that warrant adjusting the notional daily tariff?**

#### *Factors which warrant a reduction in the notional daily tariff*

[5] There are no factors that warrant a reduction in the notional daily tariff.

#### *Factors which warrant an increase to the notional daily tariff*

[6] The respondent submits the applicant chose to run the litigation in a way which increased costs including calling a significant number of witnesses who do not assist matters but increased costs and attempted to introduce confidential information regarding mediation.

[7] The necessity for examination of most of the applicant witnesses was dispensed with prior to hearing by a Minute of the Authority.<sup>3</sup> The witnesses who remained appeared relevant and did not overly elongate matters. Similarly the issues relating to the introduction of confidential material did not overly tax either party or the Authority in dealing with those matters.

[8] The hearing did not require longer than the two days set down.

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<sup>2</sup> *Mattingly v Strata Title Management Ltd* [2014] NZEMPC 15 at [16]

<sup>3</sup> Minute dated 21 August 2013

## **Outcome**

[9] The Authority has now received a Minute from the Employment Court indicating a settlement is imminent. In the circumstances, the Authority dismisses the costs application.

**TG Tetitaha**  
**Member of the Employment Relations Authority**