

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**AA 156A/08
AEA 6/06**

BETWEEN SHARON McDONALD
 Applicant

AND SPECIALTY FASHION GROUP NEW
 ZEALAND LIMITED
 Respondent

Member of Authority: Leon Robinson

Submissions received: 13 May 2008
 21 May 2008

Further information: 27 May 2008

Determination: 28 May 2008

DETERMINATION OF THE AUTHORITY AS TO COSTS

[1] By a Determination dated 28 April 2008, I determined that the applicant Ms Sharon McDonald ("Ms McDonald") had been unjustifiably dismissed. I made formal orders in settlement of the employment relationship problem.

[2] Ms McDonald now asks that Specialty Fashion Group New Zealand Limited ("Specialty") be ordered to pay costs to her. Mr Coyle advises that "application is made for costs of \$2,500.00 to be awarded to Ms McDonald". I did not accept that bare statement without more. I asked to see an invoice and Mr Coyle has provided a copy of an invoice dated 27 May 2008. That copy of invoice predates the application for costs of 12 May 2008. I am therefore doubtful that Ms McDonald had actually incurred costs before application for the same was made. Notwithstanding that situation, I am prepared to accept she is in fact liable for her advocate's services but I am uncertain of the quantum.

[3] Mr Campbell informs the Authority that Specialty was unable to make an informal proposal before the application for costs was lodged in the Authority. He refers to delay in the proceedings and quite rightly raises concerns about the

previously unspecified costs. He submits that a contribution of \$1,500.00 per hearing day is not unreasonable for a matter requiring little preparation. He says that having regard to Ms McDonald's contribution, her delay and the short investigation meeting, a contribution of \$500.00 is appropriate.

[4] This is equity and good conscience jurisdiction and costs awards in the Authority are generally modest consistent with the Authority's approach to its investigations. Literature published by the Department of Labour report that in the majority of cases, costs for one day investigation meetings fall between \$1,000.00 and \$2,500.00. The exercise of my discretion calls for a determination of what is a fair and reasonable contribution as between the parties. The Authority adopts a principled approach taking into account relevant matters and having no regard for irrelevant ones.

[5] The investigation meeting proceeded over one half day. The representatives made submissions to the Authority at the conclusion of the Investigation Meeting. The matter was not complicated. In all the circumstances, I consider that Ms McDonald should have a contribution of half of the lower daily tariff in the amount of \$750.00.

[6] Accordingly, exercising my discretion on a principled basis and for the reasons outlined above, **I order Specialty Fashion Group New Zealand Limited to pay to Sharon McDonald the sum of \$750.00 as a contribution to her costs.**

Leon Robinson
Member of Employment Relations Authority