



[4] There is an issue between the parties about payment of the remedies awarded in the earlier determination. The respondent also makes a point about some evidence given at the investigation meeting. These matters are not relevant for present purposes.

[5] I am told that counsel for the applicant has recorded 18 hours of work in dealing with this matter before the dismissal, at mediation and in the Authority. I am not told what legal costs have actually been charged to the applicant or counsel's usual hourly rate but there is a letter between the parties in which reference is made to an estimate of \$6000.00. However, an hourly rate of well over \$300.00 seems rather high. In the ordinary course of events it would be helpful for claimants to include a copy of invoices for legal costs so the Authority can properly assess any claim. I should also note that costs for time spent prior to a dismissal and at mediation are not legal costs usually recoverable in the present circumstances.

[6] I am referred to *PBO Limited v Da Cruz* (2006) 7 NZELC 98,128. That case explained that costs awards in the Authority should generally be modest and may be set by reference to a notional daily tariff. It also endorsed a departure from that approach in appropriate case.

[7] The most important aspect of this matter is the financial means of the respondent connected with the effects on it by the applicant establishing his own competing business. The respondent's principals draw a very small salary from their business which runs at a loss. They have no other source of income. These circumstances justify a departure from a daily tariff approach to assessing costs. The respondent has offered \$1,000.00 payable in a lump sum as a contribution to the applicant's costs. That impresses as a realistic approach. Accordingly I order the respondent to pay to the applicant the sum of \$1,000.00 in costs.

Philip Cheyne  
Member of the Employment Relations Authority