

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 206A/10
5152574

BETWEEN

SUPHAKORN MORRIS
Applicant

AND

OCEANIA CARE COMPANY
(NO 1) LIMITED
Respondent

Member of Authority: Dzintra King

Submissions received: 23 June from Applicant
18 June 2010 from Respondent

Determination: 23 August 2010

COSTS DETERMINATION OF THE AUTHORITY

[1] The applicant, Ms Suphakorn Morris, was unsuccessful in her personal grievance claim. The parties have been unable to agree costs. The respondent now seeks costs.

[2] The respondent has incurred legal costs of \$14,934.38 including GST. The respondent seeks that amount plus GST in costs.

[3] The applicant did not file a memorandum but sent an email saying her financial situation made it impossible for her to meet a costs award.

[4] I asked that Ms Morris forward a statement of her income and outgoings. No statement has been provided.

[5] The criteria for awards of costs are set out in *PBO Ltd (formerly Rush Security Ltd) v Da Cruz* [2005] 1 ERNZ 808.

[6] The key principles are that costs will generally follow the event, awards will be modest, it is open to the Authority to consider whether any or all of a party's costs

are unnecessary or unreasonable and costs are frequently judged against a notional daily rate.

[7] The daily rate can be varied depending upon the circumstances of the case.

[8] In this situation, had the applicant supplied me with evidence of impecuniosity I would have taken that into account. That not being the case, there is nothing in this matter that would lead me to depart from the award of a notional daily rate. There are certainly no circumstances that would lead towards an award of the level sought by the respondent.

[9] The applicant is to pay the respondent the sum of \$3,000 in costs.

Dzintra King

Member of the Employment Relations Authority