

*Under the Employment Relations Act 2000*

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON OFFICE**

**BETWEEN** Maria Ortiz (Applicant)  
**AND** AB Computer Services Limited (First Respondent)  
**AND** ABC Plumbing Drainage & Gas Limited (Second Respondent)  
**AND** Absolute Plumbing, Drains & Gas Limited (Third Respondent)

**REPRESENTATIVES** Graeme Ogilvie for Applicant  
Gordon Anslow for Respondents

**MEMBER OF AUTHORITY** G J Wood

**SUBMISSIONS** Received by 23 November 2005

**DATE OF DETERMINATION** 25 November 2005

**COSTS DETERMINATION OF THE AUTHORITY**

1. In my substantive determination I found that Ms Ortiz was employed by the second respondent, ABC Plumbing Drainage & Gas Limited (ABC Plumbing). I determined that Ms Ortiz was unjustifiably dismissed because her redundancy was not carried out in a fair manner and also found that she was not paid for five public holidays. I ordered ABC Plumbing to pay Ms Ortiz \$8,000 in compensation under section 123(c)(i); \$360 gross for unpaid notice and \$360 gross for unpaid public holidays. I also ordered ABC Plumbing to pay a penalty to the Crown of \$500 for failing to provide wage and time records when requested.
2. On behalf of Ms Ortiz, Mr Ogilvie sought a contribution towards her costs of \$1,700. Costs incurred, exclusive of mediation, were \$3,375. In addition, disbursements of \$100 were sought, being \$70 for the filing fee and \$30 for photocopying. Mr Ogilvie noted that ABC Plumbing's failure to comply with directions from the Authority

regarding provision of statements of evidence meant that extra investigation time was required while the representative of ABC Plumbing, its director Mr Anslow, prepared and presented that evidence.

3. This was one of a number of failures by Mr Anslow on behalf of ABC Plumbing to respond to requests from Ms Ortiz and directions of the Authority. For example, no witness statements were provided to the Authority and a penalty was awarded against ABC Plumbing for its failure to provide wage and time records. All of this created extra costs for Ms Ortiz and raised questions as to whether or not ABC Plumbing had facilitated rather than obstructed the Authority's investigation and acted in good faith towards Ms Ortiz and her representative during the investigation. The latest example of this is the lack of any response by any of the respondents to Mr Ogilvie's submissions.
4. Taking all these factors into account, I agree with Mr Ogilvie's assessment of what a reasonable contribution towards Ms Ortiz's costs should be. I therefore order the second respondent, ABC Plumbing Drainage & Gas Limited, to pay to the applicant, Ms Maria Ortiz, \$1,700 in costs and \$100 in disbursements.
5. I note that I have given leave to retain Absolute Plumbing Drains & Gas Limited as a respondent in the event that enforcement issues arose and that leave still applies.

**G J Wood**  
**Member of Employment Relations Authority**