

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2017] NZERA Auckland 307
3003271

BETWEEN

JANET POOL

Applicant

AND

SAN REMO PASTA LIMITED

Respondent

Member of Authority: Robin Arthur

Representatives: Jonathan Kay, Counsel for the Applicant
Michael Quigg, Counsel for the Respondent

Memoranda: 18 September 2017 from the Applicant and
2 October 2017 from the Respondent

Determination: 3 October 2017

COSTS DETERMINATION OF THE AUTHORITY

A. San Remo Pasta Limited must pay Janet Pool \$8071.56 as a contribution to costs and expenses she incurred in pursuing her personal grievance.

[1] Janet Pool succeeded in her personal grievance application against San Remo Pasta Limited and was awarded remedies.¹ Ms Pool sought an award of costs to cover the full costs of the legal fees she initially incurred and the legal aid grant she later received to pursue her claim.

[2] In reply to her costs application San Remo accepted the Authority's normal tariff should apply for the two day investigation meeting held on 15 and 16 June 2017.

[3] The normal tariff of \$4500 for the first day and \$3500 for the second day gave a total of \$8000. Ms Pool should also be reimbursed for the Authority's \$71.56 filing fee. No hearing fee was charged for the second day of the investigation meeting so no reimbursement was required for that.

¹ *Pool v San Remo Pasta Limited* [2017] NZERA Auckland 283.

[4] Ms Pool sought a higher award of \$8721.56. This figure comprised two elements. The first was \$4100.28 of legal fees and disbursements she paid privately up to October 2016. The second was \$4621.37 she received under the terms of a legal aid grant, made in November 2016, for representation in the Authority investigation. While the relevant invoices were not provided, it could be inferred from what was said in her costs memorandum that the legal fees referred to had included some amount relating to attendance at mediation in September 2016. Fees related to mediation attendance are not typically included in the Authority's assessment of costs.

[5] Whether or not a small margin for mediation-related costs needed to be deducted from the total Ms Pool incurred in costs and disbursements, a tariff-based award of \$8071.65 was a substantial contribution towards what was spent in bringing her claim. It was the appropriate amount to award as there were no other factors identified requiring an upward or downward adjustment.

[6] Ms Pool also sought a further sum of \$400 for lodging a costs submission. It has not been awarded. Costs for pursuing costs are not typically awarded by the Authority.

[7] Ms Pool will need to advise the Legal Aid Commissioner of the costs award and address any repayment of legal aid required under the relevant provisions of the Legal Services Act 2011. That is a matter left for her to address.

Robin Arthur
Member of the Employment Relations Authority