



Employment Court of New Zealand

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Paki v Panel Holdings Limited AC 12/08 [2008] NZEmpC 27 (2 May 2008)

Last Updated: 9 May 2008

IN THE EMPLOYMENT COURT

AUCKLANDAC 12/08ARC 54/07

IN THE MATTER OF an application for costs

BETWEEN PAANIA PAKI

Plaintiff

AND PANEL HOLDINGS LIMITED

Defendant

Hearing: By memorandum of submissions filed on 1 May 2008

Judgment: 2 May 2008

JUDGMENT OF CHIEF JUDGE GL COLGAN

[1] Panel Holdings Limited seeks an order for indemnity costs against Paania Paki whose challenge to the determination of the Employment Relations Authority was dismissed for want of prosecution on 10 April 2008.

[2] Apart from lodging a challenge to the Authority's determination, Ms Paki has done nothing about her case although ample opportunities have been extended to her and I am satisfied these have been brought to her notice. That is consistent with Ms Paki's lack of co-operation with the Employment Relations Authority in its investigation of her former employer's claim against her. Those circumstances are set out in my first interlocutory judgment of 3 December [2007, AC 59/07](#), and do not need to be repeated here.

[3] The defendant says its costs of defending the challenge have amounted to \$806.25 (exclusive of GST and exclusive of disbursements). I accept that is a reasonable fee for the attendances by the defendant's solicitors in this matter.

[4] I also consider that this is one of the unusual cases for the award of indemnity costs. Not only has Ms Paki not taken any steps to pursue her challenge but she has put her former employer to time and trouble for no purpose. The case against Ms Paki in the Employment Relations Authority was a strong one. She breached seriously the terms and conditions of her employment and, by incurring debts that were essentially personal but in her employer's name, acted fraudulently. Ms Paki could really have had no defence to the proceedings against her in the Authority and even less prospect of success on the challenge that she brought but then ignored. These are the sorts of circumstances in which the Court will award indemnity costs.

[5] The defendant has not specified what disbursements it has incurred or the amounts but I accept that some may be compensable. The defendant should now satisfy the Registrar of the details and amounts of those disbursements and judgment may then be sealed for costs of \$806.25 together with GST and disbursements certified by the Registrar.

GL Colgan

Chief Judge

Judgment signed at 9 am on Friday 2 May 2008

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