



# New Zealand Employment Relations Authority Decisions

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## Parr v Chief of Defence Force [2011] NZERA 214; [2011] NZERA Wellington 58 (13 April 2011)

Last Updated: 20 June 2011

IN THE EMPLOYMENT RELATIONS AUTHORITY WELLINGTON

[2011] NZERA Wellington 58 5163968

BETWEEN IAN EDWARD PARR

Applicant

AND CHIEF OF DEFENCE FORCE

Respondent

Member of Authority: G J Wood

Representatives: Ian Parr on his own behalf

Nigel Lucie-Smith for the Respondent

Investigation Meeting: On the papers

Submissions Received By: 6 April 2011

Determination: 13 April 2011

### COSTS DETERMINATION OF THE AUTHORITY

[1] In my substantive determination, I concluded that Mr Parr was treated fairly throughout the relocation process instigated by the respondent (Defence) and that he should not, as claimed, have been declared redundant and be paid redundancy compensation. In a preliminary determination, I also concluded that Mr Parr was precluded from bringing a personal grievance for alleged victimisation because he was out of time.

[2] Following these determinations, Defence seeks costs of \$5,520 plus GST, being less than the tariff in the Authority of around \$3,000 per day, given that there were three days of investigation meeting. This was the sum only for in-house counsel, not for costs incurred through Crown Law advice.

[3] In response, Mr Parr focused on concerns he had with the Authority's determinations. Those are not relevant matters for costs. Mr Parr did, however, note that he does not own the lifestyle block in the Bay of Plenty referred to by Defence, that he has only had paid employment for two weeks in the last two years, and that he is on a benefit. He submitted that costs should be awarded to him because Defence failed to manage the personal grievance in a manner one would expect of a large organisation.

[4] In response, Defence noted that in general costs follow the event. It also noted that Mr Parr had not provided any detail about his alleged inability to pay. It was claimed that Mr Parr appears to have used proceeds from the sale of a house he did own to pay for the property in the Bay of Plenty, and that he was the recipient of a pension from the Government Superannuation Fund, as well as having been paid out under a different superannuation scheme when he left Defence's employment. It was therefore submitted that Mr Parr being on a benefit may have more to do with *the fact he has alienated assets and income than because he was impecunious*.

[5] As Mr Parr has been informed throughout, costs normally follow the event. In this case, Mr Parr failed in all his claims, which took around three days to investigate. On a normal tariff basis, consideration of a costs claim of between \$6,000-9,000

would be appropriate and therefore I accept that Defence's claim of \$6,348 is reasonable in all the circumstances: *PBO Ltd formerly Rush Security Ltd v. Da Cruz* [2005] NZEmpC 144; [2005] ERNZ 808.

[6] While Mr Parr may not have sufficient assets to meet an award of this sum immediately, there is no doubt of his ability to pay over time, given him being in receipt of a pension through the Government Superannuation Fund (*Koia v. Attorney-General in respect of the Chief Executive of the Ministry of Justice (No 2)* [2004] NZEmpC 97; [2004] 2 ERNZ 274).

[7] Considering that the parties can make arrangements for Mr Parr to pay any costs awarded to Defence over time, and Defence's success in all aspects of the employment relationship problem, I consider that an award of \$5,000 is appropriate. I therefore order the applicant, Mr Ian Parr, to pay the respondent, the Chief of Defence Force, the sum of \$5,000 in costs.

**G J Wood**

**Member of the Employment Relations Authority**

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