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Patterson v Workman (Wellington) [2011] NZERA 585; [2011] NZERA Wellington 136 (23 August 2011)

Last Updated: 12 September 2011

IN THE EMPLOYMENT RELATIONS WELLINGTON

AUTHORITY

[2011] NZERA Wellington 136
5308468

BETWEEN NADYA PATTERSON

Applicant

AND SHARLEEN WORKMAN

Respondent

Member of Authority: Denis Asher

Representatives: Phillip Drummond for Ms Patterson

Gretta O'Connell for Ms Workman

Submissions received: 14 July 2011

Determination: 23 August 2011

COSTS DETERMINATION OF THE AUTHORITY

[1] Ms Patterson was unsuccessful in her claim that she was an employee of the respondent, Ms Workman, and that she had been unjustifiably disadvantaged and unjustifiably dismissed by her (refer to [2011] NZERA Wellington 68).

[2] Costs were reserved.

[3] Ms Workman now seeks costs.

The Respondents' Costs Submissions Summarised

[4] In submissions received on 15 June the respondent says it incurred actual costs of over \$10,000 (excluding costs associated with attending mediation) and, because the respondent believes the applicant's conduct contributed significantly to these costs and the investigation exceeded half a day, seeks a contribution of \$5,000 plus GST.

[5] Ms Workman relies on *PBO Limited (formerly Rush Security Limited) v Da Cruz* [\[2005\] NZEmpC 144](#); [\[2005\] 1 ERNZ 808](#). She says there has been no response to efforts to negotiate and resolve the matter with Ms Patterson directly.

The Applicant's Costs Submissions Summarised

[6] In a memorandum received on 14 July Ms Patterson accepts that costs follow the event and says the issue is the quantum of costs to be awarded.

[7] A notional daily tariff operates in the Authority of between \$2,000 and \$2,500 per hearing day.

[8] The matter, including (unsuccessful) settlement negotiations, took only half a day: costs should therefore be awarded of \$1,000 to \$1,250.

Discussion and Findings

[9] The Authority's discretion with which to award costs is now well settled and typically follows the event: *Da Cruz* (above).

[10] This is an unexceptional claim and the parties were alerted to the costs risks during the investigation.

[11] In all the circumstances, and particularly the tariff approach, I am satisfied that \$1,500 is an appropriate contribution to reasonable costs arising out of the half-day investigation.

Determination

[12] Ms Patterson is to pay to Ms Workman, as a contribution to the latter's reasonable costs, the sum of \$1,500 (fifteen hundred dollars).

Denis Asher

Member of the Employment Relations Authority

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