

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Regina Mae Pepene (Applicant)
AND Idea Services Limited (Respondent)
REPRESENTATIVES Regina Mae Pepene, In person
Paul McBride, Counsel for Respondent
MEMBER OF AUTHORITY Dzintra King
SUBMISSIONS RECEIVED 26 May 2006 (from Respondent) & 1 June 2006 (from Applicant)
26 June 2006 (Additional Information from Applicant)
DATE OF DETERMINATION 16 August 2006

COSTS DETERMINATION OF THE AUTHORITY

The respondent was successful in defending a personal grievance by Ms Pepene and now seeks costs. The total costs incurred were \$5,934.88 and disbursements were \$626 (travel costs). The respondent seeks an award of \$4,500.

The principles applicable to an award of costs in the Authority have been set out in PBO Ltd (formerly Rush Security Ltd) v Da Cruz, unreported, AC2A/05, 9 December 2005. The Full Court set out a number of principles including:

- There is a discretion as to whether costs are awarded and the amount of the award;
- The discretion is not to be exercised arbitrarily;
- Costs are not to be used punitively;
- The Authority can consider whether all or any of the parties' costs were unnecessary or unreasonable;
- Costs generally follow the event;
- Awards will be modest;
- Frequently costs are judged against a daily notional rate;
- The nature of the case can influence costs.

Ms Pepene said she had had an accident, was in receipt of accident compensation and that she was not receiving much compensation as she had only been working on a part-time/casual basis after her employment with Idea Services terminated. At that stage Ms Pepene was asked to provide further information about her financial circumstances. Ms Pepene provided me with a statement from ACC but no indication of her assets or outgoings. It was, nonetheless, sufficient to indicate that her financial resources were limited.

There is no reason why costs should not follow the event and Ms Pepene should not make a contribution to the respondent's costs. However, in the circumstances a substantial contribution would be punitive. A reasonable contribution is \$500 plus the payment of the \$626 disbursements.

Dzintra King
Member of Employment Relations Authority