

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2011] NZERA Auckland 344
5329611

BETWEEN MARTIN POLZLEITNER
 Applicant

AND WWW MEDIA LIMITED
 Respondent

Member of Authority: Rachel Larmer

Representatives: David Hayes, Counsel for Applicant
 Mark Hammond and Karina McLuskie, Counsel for
 Respondent

Investigation Meeting: On the papers

Submissions Received 27 July 2011 from Respondent
 28 July 2011 from Applicant

Additional information: 29 July 2011 from Respondent
 29 July 2011 from Applicant

Determination: 2 August 2011

COSTS DETERMINATION OF THE AUTHORITY

A Mr Martin Polzleitner is ordered to pay www Media Limited \$1,800 towards its actual legal costs.

[1] By consent, Mr Polzleitner's matter was heard at the same time as his fiancée's claim.¹ The investigation of both matters took one day. Mr Polzleitner's claim took up approximately 60% of the investigation time with Ms Zink's claim taking up 40% of the investigation time.

¹ *Melanie Zink v www Media Limited* [2011] NZERA Auckland 311

[2] Both claims were dismissed for lack of jurisdiction because the Authority concluded that neither Ms Zink nor Mr Polzleitner had been employed by www Media Limited.

[3] As the successful party www Media Limited is entitled to a contribution towards its actual legal costs. The parties were encouraged to resolve costs by agreement, but that has not been possible. In accordance with paragraph 74 of the Authority's determination², the respondent now seeks a costs order in its favour.

[4] The Authority has a wide costs discretion which must be exercised in a principled manner.³ The leading authority on costs in the Authority is the Employment Court's decision in *PBO Limited (formerly Rush Security Limited) v Da Cruz*.⁴ Those principles are so well known I do not need to set them out.

[5] The respondent sought costs of \$11,000 against Mr Polzleitner. Mr Polzleitner submitted an award of between \$1,200 – \$1,800 would be appropriate.

[6] I consider this matter was a straightforward one, which did not involve complex facts or novel legal issues. I find there are no features of this case which would warrant a departure from the Authority's usual tariff based approach.

[7] I have adopted \$3,000 as a notional daily tariff. In considering whether the notional daily tariff should be adjusted, I have concluded there are no factors which would warrant any adjustments being made.

[8] The investigation of this matter required just over half a day, so I consider \$1,800 is an appropriate contribution towards the respondent's costs.

[9] Accordingly, Mr Polzleitner is ordered to pay www Media Limited \$1,800 towards its actual legal costs.

Rachel Larmer
Member of the Employment Relations Authority

² *Martin Polzleitner v www Media Limited* [2011] NZERA 310

³ Clause 15, Schedule 2 ERA 2000

⁴ [2005] 1 ERNZ 808

