

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 359A/10
5137955

BETWEEN DORA POULOPOULOS
 Applicant

AND RESIDENTIAL RENTALS
 LIMITED
 Respondent

Member of Authority: Alastair Dumbleton

Submissions Received 3 and 10 September 2010

Determination: 20 September 2010

COSTS DETERMINATION OF THE AUTHORITY

[1] In determining (under AA359/10 of 16 August 2010) that Mrs Dora Pouloupoulos did not have a personal grievance arising from or in relation to her dismissal by Residential Rentals Limited, the Authority reserved the question of costs. An application has now been made and responded to within the time directed by the Authority.

[2] Residential Rentals seeks an order requiring Mrs Pouloupoulos to pay costs of \$4,790. That amount is 2/3rds of total costs of \$7,186 (excluding GST) incurred by the company. Of those total costs I note there is \$660 included for participation in mediation. That amount cannot therefore be taken into account. While \$660 appears reasonable, the Authority is not able to seek information about the way the mediation proceeded and whether it was engaged in with good faith by both parties.

[3] The 2/3rds principle used by the respondent to quantify the costs sought is appropriate in the Employment Court with its adversarial process but is not usually applied in the Authority.

[4] For Mrs Pouloupoulo it is acknowledged that costs should follow the event in this case and that for the one day investigation meeting an appropriate level is around \$2,000. Counsel advises that amount was offered to Residential Rentals but declined, when the parties were trying to settle the question of costs.

[5] The daily tariff approach is frequently used as one method of assessing costs or to provide a benchmark for an assessment by arrived at by other means. The cases indicate that there is a range within which the daily tariff might fall within, and currently that range is between \$2,500 and \$3,500.

[6] The employer is entitled to a reasonable contribution to its actual costs which for the investigation, excluding mediation, were about \$6,500. The case was a straightforward one to investigate and was easily concluded in one day.

[7] This case was decided on the evidence rather than any issues of law. As noted in submissions, the Authority determined the matter by relying on the evidence of one particular witness, the employer's manager, who I found to be generally a reliable witness of how and why the restructuring was carried out that lead to the redundancy of Mrs Pouloupoulos.

[8] The parties, as is their right, elected to be represented in this case by professional counsel and advocate whose total fees were a matter between them and their clients. Whatever the representation the Authority was obliged to investigate the matter and establish the facts, a factor that distinguishes the costs regime in the Authority from that of the Court.

[9] I consider \$2,750 is an appropriate award in this case with its particular circumstances. That amount is also consistent with other awards made in similar cases of similar length, and it represents a contribution to the successful party's costs that is reasonable.

[10] Mrs Dora Pouloupoulos is therefore ordered to pay \$2,750 to Residential Rentals Limited as costs, pursuant to clause 15 of Schedule 2 of the Employment Relations Act 2000.

A Dumbleton
Member of the Employment Relations Authority