

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2011] NZERA Auckland 164  
5317099

BETWEEN RAMESH PRASAD  
Applicant

AND BREAKSPEARE  
INDUSTRIES LIMITED  
t/a COASTLINE PROPERTY  
SERVICES  
Respondent

Member of Authority: K J Anderson

Representatives: D Hayes, Counsel for Applicant  
E Burke, Counsel for Respondent

Submissions received: 22 February 2011 from Respondent  
4 March 2011 from Applicant

Determination: 26 April 2011

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**COSTS DETERMINATION OF THE AUTHORITY**

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[1] In a determination dated 28<sup>th</sup> January 2011<sup>1</sup> the Authority found that the claims of Mr Prasad against the respondent, Breakspeare Industries Limited (“BIL”) could not be upheld. As the successful party, BIL have filed submissions on costs. Mr Prasad has filed submissions in response.

[2] The investigation meeting was comfortably completed within half of a day and there was nothing particularly exceptional about the case. The respondent has incurred total costs of \$5,106.13 (including GST) and seeks a contribution from Mr Prasad in the sum \$3,000.

[3] Conversely, the submissions for Mr Prasad are that, not all of the costs incurred by BIL are appropriate to the proceedings in the Authority. Further, it is

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<sup>1</sup> [2011] NZERA Auckland 39

submitted that because the Authority found there was a mutual loss of trust and that both parties “could have done better” a “fair and just” result would be for costs to lie where they fall.

[4] While it is true that the Authority found there were some faults by both parties to the substantive matter, the fact remains that overall Mr Prasad was unsuccessful in his claim of unjustified dismissal and hence the normal principle of costs following the event should apply.

[5] The accepted practice of the Authority is to apply the principles set out in *PBO Limited (formerly Rush Security Limited) v Da Cruz* [2005] ERNZ 808. In particular, a tariff based approach is applied with the current rate of \$3,000 for each day of an investigation meeting being commonly awarded, with this sum being increased or reduced depending on the circumstances.

[6] Taking all the circumstances of this particular case into account and that the investigation meeting was approximately half of a day, I conclude that an award of a sum of \$1,200 is appropriate.

### **Determination**

[7] Mr Prasad is ordered to pay to Breakspeare Industries Limited the total sum of \$1,200.00 as a contribution to costs.

**K J Anderson**  
**Member of the Employment Relations Authority**