

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2011] NZERA Auckland 535
5306232

BETWEEN WILLIAM QUIN
 Applicant

AND TRUCKING RELIEF
 (WAIKATO) LIMITED
 Respondent

Member of Authority: Alastair Dumbleton

Submissions Received 28 October and 1 November 2011

Determination: 16 December 2011

COSTS DETERMINATION OF THE AUTHORITY

[1] Mr William Quin applied to the Authority in September 2011 to have the investigation and resolution of his grievance claim re-opened. That claim had been determined in January 2011. The Authority found then that Mr Quin did not have a personal grievance and had not been dismissed, as he had claimed, from his employment with the respondent, Trucking Relief (Waikato) Ltd; see, [2011] NZERA Auckland 03. Following that determination, in April 2011 costs were awarded by the Authority against Mr Quin.

[2] In its determination dated 20 October 2011 - [2011] NZERA Auckland 455 - the Authority declined Mr Quin's re-opening application. I found that no acceptable grounds had been put forward for re-opening the investigation and that Mr Quin had simply wanted to try again in the hope that the Authority would view his original claim in a different light.

[3] Trucking Relief (Waikato) Ltd has applied for an order of costs against Mr Quin to follow that result. The firm was invoiced total legal fees including GST of

\$3,450 by Ms Alchin, for her services as counsel in relation to the application. An award of two-thirds of actual and reasonable costs, \$2,300, is sought by her.

[4] In response Mr Quin says that he was misled or confused by the Authority's written advice given in response to his complaint about the Authority member Ms Campbell. I had advised Mr Quin that as his complaint was about the determination Ms Campbell had made rather than about her personal conduct or behaviour, as well as the remedy of *de novo* challenge re-opening was available "on grounds."

[5] The problem is, Mr Quin has not presented any recognised grounds that may be used to support a re-opening application.

[6] The respondent should be entitled to some contribution to its actual and reasonable costs in this matter that was able to be determined on the papers. The amount charged seems high for a case where it was obvious that the applicant simply disagreed with the Authority's decision and was chancing his arm to try and get a better result. This was the respondent's view, as Mr Alchin wrote to Mr Quin warning that costs would be sought if he persisted with his re-opening application.

[7] The amount of \$2,300 claimed as actual and reasonable is more in keeping with an award in a case where there has been an investigation meeting of between a half and one day duration.

[8] In the circumstances, I consider that Mr Quin has caused Trucking Relief (Waikato) Ltd to incur further costs unnecessarily and should make a reasonable contribution to actual costs. I consider \$575 will be sufficient for that purpose.

[9] In the exercise of the Authority's discretion, Mr William Quin is ordered to pay \$575 to Trucking Relief (Waikato) Ltd pursuant to clause 15 of Schedule 2 of the Employment Relations Act 2000.

A Dumbleton
Member of the Employment Relations Authority