

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

[2014] NZERA Christchurch 29
5405157

BETWEEN	VICKI RAUMAewa Applicant
AND	BILLY ATWAL (aka BALIHAR SINGH) Respondent

Member of Authority: Helen Doyle

Submissions received: 24 January 2014 from Applicant
No submission from Respondent

Determination: 21 February 2014

COSTS DETERMINATION OF THE AUTHORITY

A. Billy Atwal (aka Balihar Singh) is ordered to pay costs in the sum of \$1,750 together with disbursements in the sum of \$222.79 to Vicki Raumaewa.

[1] In my determination dated 20 December 2013 I found in favour of the applicant that she was owed wages and that she had been unjustifiably dismissed in her employment. I awarded reimbursement of unpaid and lost wages and compensation. I reserved the issue of costs and set a timetable for an exchange of submissions.

[2] I have now received submissions on behalf of the applicant from Ms Black. A support officer communicated with Mr Atwal both by post and email on 24 January 2014 following receipt of the applicant's submissions. Mr Atwal was provided with a copy of Ms Black's submissions and he was reminded that cost submissions were to be provided by the respondent by 14 February 2014. The support officer stated that if

Mr Atwal did not respond by 14 February 2014 the Authority was likely to deal with costs on the basis of the submissions it had received.

[3] There has been no response from the respondent to the correspondence from the support officer and no submissions provided with respect to costs. I propose in the circumstances to proceed to determine the issue of costs.

[4] Ms Black in her submissions has attached an invoice that had been rendered to the applicant in the sum of \$2,593.59. That amount includes disbursements of \$260.59. Actual costs therefore are \$2,333.

[5] Ms Black referred to the leading authority about costs in the Employment Relations Authority; *PBO Ltd (formerly Rush Security Ltd) v. Da Cruz* [2005] 1 ERNZ 808. In *PBO* the full Court of the Employment Court stated in para.[44] that the Authority is able to set its own procedure and has since its inception held to some basic tenets when considering costs. These include that costs are discretionary but that such discretion is to be exercised in accordance with principle and not arbitrarily. Costs are not to be used as a punishment or an expression of disapproval of the unsuccessful party's conduct, although conduct which increases costs unnecessarily can be taken into account in inflating or reducing an award.

[6] Costs generally follow the event and awards will be modest. Frequently costs are judged against a notional daily rate which is now recognised in the Authority as \$3,500.

Determination

[7] The applicant's costs were reasonable and Ms Black's hourly rate of \$150 quite modest. The investigation meeting did not occupy a full day. Although the meeting was to commence at 10am the respondent arrived late so the meeting commenced at 10.20am and my minute book records that the meeting finished at 1pm.

[8] I intend to assess costs on the basis of a half day investigation meeting. Based on the notional daily tariff that would be the sum of \$1,750. There was no conduct on the part of either party that unnecessarily increased costs. Full indemnity costs are not usually awarded in the Authority and this is not a case that calls for them.

[9] Ms Black, by letter dated 12 July 2013, attempted to resolve the matter with the respondent. The letter was headed *without prejudice as to costs*. It was not responded to. It would have been sensible for that offer to have been carefully considered and responded to but ultimately the applicant was successful and was awarded considerably more than she was prepared at that stage to settle for. I do not place weight on that offer in the circumstances.

[10] Awards for disbursements are limited to payment to third parties as opposed to administrative/office overheads. I order reimbursement of the filing fee of \$71.56, the service costs incurred of \$126.73, and the courier fees in the sum of \$24.50. That is reimbursement for disbursements in the sum of \$222.79.

[11] I order Billy Atwal (aka Balihar Singh) to pay costs in the sum of \$1,750 together with disbursements in the sum of \$222.79 to Vicki Raumaewa.

Helen Doyle

Member of the Employment Relations Authority