

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2016] NZERA Auckland 105
5590140

BETWEEN FRANCES RICHARDS
 Applicant

A N D FRESH FLOWER WHOLESALER
 LIMITED
 Respondent

Member of Authority: Rachel Larmer

Representatives: Wi Pere Mita Counsel for Applicant
 No appearance for Respondent

Investigation Meeting: On the papers

Submissions: 16 March 2016 from Applicant
 No submissions from Respondent

Date of Determination: 05 April 2016

**COSTS DETERMINATION OF
THE EMPLOYMENT RELATIONS AUTHORITY**

Employment relationship problem

[1] In a substantive determination dated 02 March 2016¹ the Authority held that Ms Richards' dismissal was procedurally and substantively unjustified. The parties were encouraged to resolve costs by agreement but that has not occurred.

[2] Ms Richards seeks costs of \$3,500 plus disbursements of \$452.06. Fresh Flower Wholesaler Limited (Fresh Flower) did not file any costs submissions.

[3] Costs principles are so well established in the Authority that I do not need to restate them here. A costs award against an unsuccessful party is made so that the

¹ [2016] NZERA Auckland 66.

successful party received a contribution towards its actual legal costs. This means that in order to receive costs a party must have actually incurred legal costs.

[4] Ms Richards was represented by the Community Legal Services South Trust (CLSST) which is a Charitable Trust. Ms Richards and CLSST signed a Standard Terms of Engagement agreement under which it was agreed that CLSST would provide Ms Richards with legal services free of charge but that Ms Richards would be responsible for any money payable to a third party in respect of the legal services provided.

[5] I am therefore not satisfied that Ms Richards has actually incurred legal costs so I decline to award costs in her favour. I am however satisfied that Ms Richards has actually incurred disbursements of \$452.06 consisting of \$71.56 for her filing fee plus \$380.50 for the costs of travel reimbursement and parking for her counsel to attend the Authority's investigation meeting.

[6] Accordingly within 28 days of the date of this determination Fresh Flower is ordered to pay Ms Richards \$380.50 to reimburse her for the disbursements she has incurred.

Rachel Larmer
Member of the Employment Relations Authority