

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 4A/08
5077386

BETWEEN JULIENNE ROSE
 Applicant

AND RODNEY ECONOMIC
 DEVELOPMENT TRUST
 Respondent

Member of Authority: R A Monaghan

Representatives: Julienne Rose, in person
 Sarah-Jane Neville, Counsel for Respondent

Submissions received: 21 February 2008 from Applicant
 8 February 2008 from Respondent

Determination: 26 February 2008

COSTS DETERMINATION OF THE AUTHORITY

[1] In a determination of the above matter dated 14 January 2008 I found that Ms Rose's resignation did not amount to a constructive dismissal. Costs were reserved.

[2] The REDT has filed a memorandum seeking a reasonable contribution to its legal costs in defending the substantive claim, plus expenses incurred in arranging for Ms Saunders' attendance at the investigation meeting.

[3] Legal costs came to a very reasonable total of \$10,747.50 (excluding mediation). Ms Saunders' expenses were incurred because she had resigned from the REDT and moved to Christchurch. Thus her expenses comprised airfares of \$325.50, one night's hotel accommodation and associated travel expenses of \$267.46, and a fee of \$560 in respect of time spent attending the investigation meeting.

[4] As the successful party, the ERDT is entitled to a contribution to its costs. Ms Rose had a number of concerns, about which she felt very strongly, but that does not in general protect a losing party from the possibility of an order for a payment of costs. Applying the principles for setting costs in the Authority found in **PBO Ltd (formerly Rush Security Ltd) v da Cruz**¹, and taking into account the length of the investigation meeting, I would have ordered her to contribute to the REDT's costs in the sum of \$3,500, and to meet Ms Saunders' airfares, accommodation and travel costs of \$592.96. I would not have ordered her to meet Ms Saunders' fee as charged because it appears merely to be a fee in respect of time spent at the investigation.

[5] Ms Rose says she is unable to meet any legal costs. I heard some evidence about her position during the investigation meeting, and accept that the award I would otherwise have made would cause her some difficulty. However there is not enough information to persuade me she would be unable to meet any award at all.

[6] Ms Rose is therefore ordered to contribute to the REDT's legal costs in the sum of \$1,000 and to Ms Saunders' expenses in the sum of \$592.96.

R A Monaghan

Member of the Employment Relations Authority

¹ [2005] 1 ERNZ 808