

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Julia Sanders (Applicant)
AND Rangitauira & Co (Respondent)
REPRESENTATIVES Alex Hope
Kit Toogood, QC
MEMBER OF AUTHORITY Marija Urlich
CONSIDERATION OF 20 January 2005
PAPERS
DATE OF DETERMINATION 24 January 2005

DETERMINATION OF THE AUTHORITY AS TO COSTS

[1] An investigation meeting of this employment relationship problem was scheduled for 2 and 3 November 2004. The applicant was required to file witness statements by 7 October 2004. The applicant failed to comply with this timetable without explanation. The Authority unsuccessfully attempted to contact Mr Hope on 14 and 18 October 2004 regarding the breach of the timetable. The Authority then wrote to the parties on 19 October 2004 to convene a telephone conference call for 20 October 2004 to discuss the unexplained breach of the timetable and the possible adjournment of the scheduled investigation meeting.

[2] Prior to the telephone conference Mr Toogood filed and served a memorandum seeking costs in relation to the failure of the applicant to comply with the timetable. This memorandum outlined his unsuccessful attempts to contact Mr Hope regarding the timetable breach.

[3] During the telephone conference call Mr Hope explained why the timetable had been breached.

[4] Also during the conference call I heard submissions from the parties on the issue of costs. I have had a further opportunity to consider these submissions in the intervening period. I confirm and record my decision to make an award of costs of \$500.00 against the applicant. My reasons for making this award are as follows. The breach of the timetable led inevitably to the adjournment of the scheduled investigation meeting. The breach was not notified to the Authority or Mr Toogood and remained unexplained until 20 October 2004. The failure to notify the Authority or Mr Toogood of the timetable breach resulted in repeated unsuccessful attempts by the Authority and Mr Toogood to discuss the issue with Mr Hope. I accept the respondent incurred costs in instructing Mr Toogood as to how to deal with the breach of the timetable and the unexplained nature of that breach. These legal costs amounted to \$1000.00 and in the circumstances were not unreasonably incurred. I agree with Mr Hope's submission that in this situation the costs award should not include executive time however, legal costs have been incurred by the respondent and the applicant

should contribute to those costs. Taking into account all the circumstances I set that contribution at \$500.00.

Marija Urlich
Member, Employment Relations Authority