

BETWEEN

FRANCIS SCHRIIFFER
Applicant

A N D

FIRST SECURITY GUARD
SERVICES LIMITED
Respondent

Member of Authority: James Crichton

Representatives: Grant Macdonald, Advocate for Applicant
Jo Douglas, Counsel for Respondent

Submissions Received: 5 June 2013 from Applicant
27 April 2012 from Respondent

Date of Determination: 10 June 2013

COSTS DETERMINATION OF THE AUTHORITY

Apology

[1] The Authority heard this matter early in 2012 and issued its substantive determination on 20 April 2012. Since then, the respondent has filed cost submissions although nothing was filed at the time on the applicant's behalf. Because of an administrative error, the matter was not addressed by the Authority in a timely way, as it should have been, and the Authority can only apologise to the parties for the unreasonable delay in fixing costs.

The substantive determination

[2] As the Authority has just noted, the substantive determination issued on 20 April 2012 dismissing Mr Schriiffer's claims in their entirety.

[3] Costs were reserved.

The claim for costs

[4] First Security Guards Limited (First Security) seek an award of costs in the sum of \$7,000. That figure represents two days at the daily tariff rate. This was a two day hearing. The actual costs incurred were \$13,822.50 inclusive of GST and administrative disbursements. Travel and accommodation costs to the hearing location (Whangarei) are on top of that sum as well.

The response

[5] The response from the advocate for Mr Schriiffer could best be described as minimalist and perhaps misses the point. It is in the following terms:

There were no costs from our side.

Determination

[6] The law on costs fixing in the Authority is well settled. Costs usually follow the event; that is, the successful party may look to the unsuccessful party for a contribution to that party's costs. The Authority can consider the circumstances of a party being asked to make a contribution to costs but there is nothing before the Authority in respect of Mr Schriiffer's circumstances that the Authority can consider.

[7] The Authority regularly adopts the practice of fixing costs on a daily tariff basis. This particular matter took two days to hear. Mr Schriiffer was completely unsuccessful. He has therefore put First Security to the cost of running a defence to his claims and they now seeks a contribution to those costs, as the law allows.

[8] First Security's claim is for costs to be fixed at \$7,000. That is in accord with the Authority's traditional daily tariff approach.

[9] Accordingly, the Authority fixes costs at \$7,000. Mr Schriiffer is to pay First Security that amount.

James Crichton
Member of the Employment Relations Authority