

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Gregory Paul Sinclair (Applicant)
AND Local Media Group Limited (Respondent)
REPRESENTATIVES Roger Bowden, Counsel for Applicant
Phillip Howard-Smith, Counsel for Respondent
MEMBER OF AUTHORITY R A Monaghan
DATE OF DETERMINATION 7 March 2006

DETERMINATION OF THE AUTHORITY ON APPLICATION TO REOPEN

[1] In a determination dated 8 February 2006 in the above, I made an order for the payment of costs in favour of Local Media Group Limited. As I recorded in the determination, I had not heard from counsel for Mr Sinclair within the timeframe set out in the determination or in response to a subsequent query.

[2] By letter dated 13 February 2006 counsel for Mr Sinclair sought a 'rehearing' and has since formally applied to have the investigation reopened. He said he did not receive a copy of the memorandum of counsel for the respondent as to costs until 21 December 2005, and was out of the office until 22 January 2006. While he acknowledged the Authority had sent him a copy of counsel's memorandum and sought a response by a specified date, he said the document went across his desk underneath another piece of paper and he did not consider it.

[3] In reply counsel for LMG said he communicated with counsel by email on 28 November 2005, making a suggestion as to costs. He did not receive a reply, although counsel for Mr Sinclair says he did not receive that email message. Counsel for LMG also said he sent counsel a copy of his memorandum as to costs. He submitted that the failure of counsel to act was not a ground for the investigation to be reopened. Counsel for Mr Sinclair did not take his opportunity to reply to those matters within the timetable notified to him.

[4] The failure to act is indeed unsatisfactory. In addition, counsel for Mr Sinclair has filed submissions in respect of costs anyway, and they do not change my view on costs. I decline to reopen the matter and the 8 February determination stands.

R A Monaghan
Member, Employment Relations Authority