

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Kelly Ann Stensness (Applicant)
AND BE Design Limited (Respondent)
REPRESENTATIVES Mark Nutsford, Advocate for Applicant
No appearance for Respondent
MEMBER OF AUTHORITY R A Monaghan
MEMORANDA RECEIVED 19 October 2005
DATE OF DETERMINATION 18 November 2005

DETERMINATION OF THE AUTHORITY ON COSTS

[1] In a determination of the above matter, dated 29 August 2005, I found Ms Stensness was unjustifiably dismissed and has a personal grievance. Costs were reserved. The advocate for Ms Stensness now seeks costs in the sum of \$1,440.

Communications with BE Design about costs

[2] Attached to the application for costs was a copy of a letter dated 12 October 2005, posted in Auckland, and which BE Design Limited (“BE Design”) sent to the advocate. It was apparently sent in response to a letter from the advocate dated 5 September 2005 and received by BE Design. BE Design’s letter denies receipt of the Authority’s substantive determination, although the determination was sent to the address in Indonesia identified in the letter and previously notified to the Authority. That same address happens now to be the company’s registered address.

[3] Despite being aware of the existence of the determination since the date of receipt of the advocate’s 5 September letter, BE Design has not approached the Authority about the non-receipt of the determination, and in particular has not asked the Authority for a copy. Since a representative was apparently in Auckland when the letter to the advocate was posted, the matter could easily have been remedied then. I remedy it now by forwarding another copy of the determination to the same address as before – the new registered address – together with this determination.

[4] The letter to the advocate also refers to a ‘communication’ received from the Authority in June, a reference I do not understand as the file indicates BE Design received communications from the Authority in late May as well as late July or August, but not in June. Neither of those communications was any acceptance of an ‘error’ on the part of the Authority. There was no error, and I repeat my comment to BE Design to the effect that its correspondence contains a number of misconceptions.

[5] One of those misconceptions is contained in the assertion that BE Design is not obliged to accept the determination. For the information of BE Design, the Authority’s determination is binding on the parties unless or until it is replaced by a decision of the Employment Court.

Order for costs

[6] As the successful party, Ms Stensness is entitled to a contribution to the costs incurred in bringing her employment relationship problem to the Authority.

[7] The amount the advocate seeks by way of costs is modest, although the information provided in support suggests it also amounts to a request for full indemnity costs. I do not consider that appropriate, rather BE Design is ordered to contribute to Ms Stensness' costs in the sum of \$1,000.

R A Monaghan
Member, Employment Relations Authority