

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Nadia Sword (Applicant)
AND Collins Travel Limited (Respondent)
REPRESENTATIVES David Bruce for the applicant
Barry Collins for the respondent
MEMBER OF AUTHORITY James Wilson
INVESTIGATION MEETING 14 February 2006
DATE OF DETERMINATION 25 July 2006

COSTS DETERMINATION OF THE AUTHORITY

The substantive Determination

[1] In a determination dated 21 April 2006 [Determination AA135/06; K. Anderson] the Authority found that Ms Sword had been unjustifiably dismissed by her employer, Collins Travel Ltd. The Authority ordered Collins Travelled to pay Ms Sword \$3200 by way of reimbursement for wages lost and \$5,000 as compensation for the hurt and humiliation she had suffered due to the dismissal. These amounts were reduced by 50 percent (i.e. to \$1600 and \$2500 respectively) to take into account Ms Sword's a contribution to the situation which gave rise to her personal grievance. In that Determination the Authority reserved the question of costs and invited the parties to reach their own resolution of this matter. Unfortunately they were an able to do so and Ms Sword has now requested that Collins Travel be required to contribute towards her costs.

[2] Mr Anderson, the Authority Member who undertook the investigation into Ms Sword's employment relationship problem, is currently overseas on extended leave. In his absence it falls to me to determine Ms Sword's application for costs.

The application for costs

[3] On 11 May 2006 Mr Bruce, on behalf of Ms Sword and in accordance with the timetable established in the substantive Determination, filed and served submissions in support of a costs award. Despite being given an opportunity to do so, Collins Travel have chosen not to file a submission in response.

[4] In his submission Mr Bruce details Ms Sword's costs of \$3556 plus disbursements of \$225. He suggests that Ms Sword should be awarded a contribution, including disbursements, of \$2220. In support he argues that his client was put to the expense of being represented at two investigation meetings. The first, in Hamilton, at which Collins Travel were not represented due to illness and the second meeting in Tauranga. He suggests that the amount he is seeking for his client is in line with the generally accepted principles relating to costs in the Authority.

Discussion and Determination

[5] In the absence of a submission in reply from Collins Travel my determination of Ms Sword's application for costs is based on the findings set out in the substantive Determination, the record of the investigation on the Authority's file, and the submissions filed by Mr Bruce. While it appears that this investigation was somewhat unusual, in particular because of the need to hold two separate investigation meetings, there is nothing to indicate that the award of costs should be substantially outside of those usually awarded in the Authority. (Cf; *PBO Ltd v Da Cruz, unreported AC28/06 Auckland Employment Court; Colgan CJ, Travis and Shaw JJ. 12 May 2006*). Preparation time required would not have been effected by the duplication of meetings, both of which were relatively brief. However I accept that Mr Bruce would have additional travelling time to attend the meeting in Tauranga.

[6] Collins Travel Ltd is ordered to pay Nadia Sword the sum of \$1500, plus disbursements of \$225 as a contribution towards her costs. Ms Sword's contribution to the situation which gave rise her to personal grievance has already been taken into account in the awards made by the Authority in its substantive determination. This award, for costs, is not to be similarly reduced.

James Wilson
Member of Employment Relations Authority