

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

Determination Number: WA 84A/07
File Number 5054340

BETWEEN Donna Maree Tauhore
Applicant
AND Farmers Trading Company Limited
Respondent

Member of Authority: G J Wood
Representatives: D Vincent for Applicant
P Swarbrick for Respondent
Submissions received: By 11 July 2007
Determination: 16 July 2007

COSTS DETERMINATION OF THE AUTHORITY

[1] In my substantive determination I found that the applicant, Ms Donna Tauhore, was justifiably dismissed by the respondent, Farmers Trading Company Limited (Farmers).

[2] On behalf of Ms Tauhore Mr Vincent submitted that the grievance was validly brought to the Authority for determination as there were procedural inconsistencies, the approach of one of Farmers' managers was aggressive and Ms Tauhore maintains that she did not assault the complaint. He therefore submitted that as Ms Tauhore was on legal aid, any award of costs be limited to her \$50 contribution to the Legal Services Agency.

[3] On behalf of Farmers Ms Swarbrick submitted that the company was entitled to costs, having been put unnecessarily to expense in defending the matter. She noted that Farmers had incurred costs in excess of \$9,000 plus disbursements and that in the normal course of events it would have been entitled to an award of costs of at least \$1,500, if not more. It was submitted that if \$50 was the maximum available to it an order should be made accordingly.

[4] I agree with Ms Swarbrick that in the normal course of events Farmers would have been entitled to an award of costs of at least \$1,500. In fact, this sum could have been expected to be higher, subject to Ms Tauhore's financial ability to pay any sum of costs awarded against her.

[5] Because Ms Tauhore is legally aided, however, an award of costs can only be made in the sum of her contribution to the Legal Services Agency, namely \$50.

[6] I therefore order the applicant, Ms Donna Maree Tauhore, to pay to the respondent, Farmers Trading Company Limited, the sum of \$50 in costs.

G J Wood

Member of the Employment Relations Authority