

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

AA 264A/09  
5163908

BETWEEN                      NEIL WANG  
                                         Applicant  
  
AND                                HAMILTON  
                                         MULTICULTURAL  
                                         SERVICES TRUST  
                                         Respondent

Member of Authority:        Vicki Campbell  
  
Representatives:              Applicant in Person  
                                         Julie Hardaker for Respondent  
  
Submissions Received:      14 September 2009 from Applicant  
                                         4 September 2009 from Respondent  
  
Determination:                21 September 2009

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**COSTS DETERMINATION OF THE AUTHORITY**

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[1]        In a determination dated 7 August 2009 I determined that Mr Wang was precluded from taking any steps with regard to his personal grievance on the grounds that he had already made a complaint under the Human Rights Act 1993.

[2]        Hamilton Multicultural Services Trust now seeks costs in the amount of \$1,120.00 in respect of Ms Hardaker's professional services. Mr Wang submits that this was in the nature of a test case and on that basis costs should be left to lie where they fall.

[3]        Mr Wang has filed a challenge to the Authority's determination in the Employment Court (ARC67/09). Mr Wang asks that costs in the Authority be reserved until the decision of the Employment Court is concluded. This is akin to an application for a stay. Hamilton Multicultural Services Trust is entitled to a closure of the Authority's investigation as that is the usual practice and is widely accepted.

Therefore the Authority proceeds to determine costs of the matter that was before while recognising that any award of costs might later be altered by the Court if Mr Wang is successful in his challenge.

[4] The Authority is an equity and good conscience jurisdiction and costs awards are generally modest, consistent with the Authority's approach to its investigations. The exercise of my discretion calls for a determination of what is a fair and reasonable contribution as between the parties.

[5] The matter was determined on the papers with no appearances necessary by either party although submissions were required to be prepared. The investigation and subsequent determination was necessary to clarify whether the Authority had jurisdiction to investigate Mr Wang's personal grievance.

[6] I consider it fair and reasonable that costs follow the event and order Mr Wang to pay to Hamilton Multicultural Services Trust within 28 days of the date of this determination the sum of \$200 as a reasonable contribution to its costs.

Vicki Campbell  
Member of Employment Relations Authority