

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Peter John Willy (Applicant)
AND Carter Holt Harvey Kinleith (Respondent)
REPRESENTATIVES Paul Fisher, Counsel for Applicant
David France, Counsel for Respondent
MEMBER OF AUTHORITY Vicki Campbell
SUBMISSIONS RECEIVED 12 September 2005 from Respondent
23 September 2005 from Applicant
DATE OF DETERMINATION 26 September 2005

COSTS DETERMINATION OF THE AUTHORITY

- [1] The Respondent was successful in defending Mr Willy's claim that his redundancy payment was to include his total continuous service. Carter Holt Harvey now seeks costs.
- [2] In my determination issued on 14 April 2005 I left it to the parties to resolve the question of costs between them. They have been unable to reach agreement and both representatives have filed memoranda to assist the Authority in the exercise of its discretion.
- [3] There is nothing in this case to derogate from the principle that costs follow the event and that the unsuccessful applicant should make a contribution to the respondent's reasonably incurred costs. In submissions the respondent sought a contribution of \$2,000, towards its costs plus disbursements of \$125 for travel.
- [4] The hearing took half a day. The matter was not overly complex, however Mr Willy did raise a new claim of estoppel during the course of the investigation to which the respondent was then obliged to respond.
- [5] I am satisfied that the discretion under clause 15 of Schedule 2 of the Act ought to be exercised in favour of Carter Holt Harve so that Mr Willy is required to pay to Carter Holt Harvey the sum of \$1,000 as a reasonable contribution to costs given the subject of the investigation and the duration of the investigation meeting. An order is made accordingly.

Mr Willy is ordered to pay to Carter Holt Harvey the sum of \$1,000 as a contribution to costs including disbursements.

Vicki Campbell
Member of Employment Relations Authority