

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Michelle Wilson (Applicant)

AND Classic Manufacturing Limited (Respondent)

REPRESENTATIVES Lorne Campbell, Counsel for Applicant
Debra Law, Counsel for Respondent

MEMBER OF AUTHORITY Leon Robinson

SUBMISSIONS RECEIVED 12 July 2006
18 July 2006

DATE OF DETERMINATION 20 July 2006

DETERMINATION OF THE AUTHORITY ON COSTS

[1] By a Determination dated 26 June 2006¹, I determined that Ms Michelle Wilson ("Ms Wilson") had a personal grievance. I made various orders to resolve that problem.

[2] The parties were invited to resolve costs between them but they were unable to agree. The representatives have made submissions to assist me in the exercise of the Authority's discretion.

[3] Mr Campbell advises that Ms Wilson's costs are in the amount of \$10,375.00 (exclusive of GST) being 41.5 hours at \$250.00 per hour. There are also disbursements of \$142.50 and a hearing fee of \$150.00. He seeks an indemnity of Ms Wilson's actual costs. He advises Ms Wilson's resources are limited and she will have to pay her costs out of the proceeds of the Authority's determination after the deduction of PAYE. Mr Campbell says the investigation meeting was prolonged because Classic Manufacturing Limited ("Classic") took unreasonable points and because Mr Skelton for Classic, conceded the dismissal was unjustifiable. He says too that a reasonable respondent would have settled the problem. These matters are said to entitle Ms Wilson to a greater contribution to her costs than is usual.

[4] Ms Law reminds the Authority of the Employment Court's restatement of principles adopted by the Authority in applications of this kind. She says a claim to indemnity costs is not warranted and that Classic had made approaches to settle the matter prior to Mr Campbell's engagement. Ms Law submits that in the particular circumstances, a contribution of \$1,500.00 - \$2,000.00 is appropriate.

[5] In exercising its discretion to award costs, the Authority adopts a principled approach taking into account relevant matters and taking no account of irrelevant ones. Generally, awards of costs in the Authority are modest consistent with the Authority's approach to investigations.

¹ AA220/06

[6] This investigation meeting proceeded over one and one-half day. Ms Wilson succeeded in her claims against Classic. She is entitled to an award of costs but not on an indemnity basis. She will have a reasonable contribution to her actual costs.

[7] I do not consider there is anything unusual in this case or any particular factor that warrants any departure from the Authority's conventional approach to costs.

[8] Exercising my discretion on a principled basis, **I order Classic Manufacturing Limited to pay to Michelle Wilson the sum of \$4,500.00 as a contribution to costs.**

Leon Robinson
Member of Employment Relations Authority