



# New Zealand Employment Relations Authority Decisions

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## Zink v WWW Media Limited (Auckland) [2011] NZERA 533; [2011] NZERA Auckland 345 (2 August 2011)

Last Updated: 24 August 2011

IN THE EMPLOYMENT RELATIONS AUTHORITY AUCKLAND

[2011] NZERA Auckland 345 5329612

BETWEEN

AND

MELANIE ZINK Applicant

WWW MEDIA LIMITED Respondent

Member of Authority: Representatives:

Investigation meeting: Submissions Received

Further information:

Rachel Larmer

David Hayes, Counsel for Applicant Mark Hammond, Counsel for Respondent

On the papers

- 27. July 2011 from Respondent
- 28. July 2011 from Applicant
- 29. July 2011 from Respondent 29 July 2011 from Applicant

Determination:

2 August 2011

### **COSTS DETERMINATION OF THE AUTHORITY**

**A Melanie Zink is ordered to pay www Media Limited \$1,200 towards its legal costs.**

[1] Ms Zink's claim was heard at the same time as her fiance's claim.<sup>[1]</sup> The investigation of both matters took one day. Ms Zink's claim took up approximately 40% of the investigation time with Mr Polzleitner's claim taking up 60% of the investigation time.

[2] Both claims were dismissed for lack of jurisdiction, because the Authority concluded neither Ms Zink nor Mr Polzleitner had been employed by www Media Limited.

[3] As the successful party www Media Limited is entitled to a contribution towards its actual legal costs. The parties were encouraged to resolve costs by agreement, but that has not been possible. In accordance with paragraph 38 of the Authority's substantive determination<sup>[2]</sup>, the respondent now seeks a costs order against Ms Zink.

[4] The Authority has a wide costs discretion which must be exercised in a principled manner.<sup>[3]</sup> The leading case on costs in

the Authority is the Employment Court's decision in *PBO Limited (formerly Rush Security Limited) v Da Cruz*.<sup>[4]</sup> Those principles are so well known I do not need to set them out.

[5] The respondent sought costs of \$7,000 against Ms Zink. Ms Zink submitted an award of between \$800-\$1,200 would be appropriate.

[6] I consider this matter was a straightforward one, which did not involve complex facts or novel legal issues. There are no features of this case which would warrant a departure from the Authority's usual tariff based approach. I have therefore adopted \$3,000 as a notional daily tariff. I do not consider there are any factors which warrant increasing or decreasing the notional daily tariff.

[7] The investigation of this matter involved just under half a day, so I consider \$1,200 is an appropriate contribution towards the respondent's costs.

[8] Accordingly, Ms Zink is ordered to pay *www Media Limited* \$1,200 towards its actual legal costs.

Rachel Larmer

Member of the Employment Relations Authority

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[\[1\] \*Martin Polzleitner v www Media Limited\* \[2011\] NZERA 310](#)

[\[2\] \*Melanie Zink v www Media Limited\* \[2011\] NZERA Auckland 311](#)

[\[3\] Clause 15, Schedule 2 ERA 2000](#)

[\[4\] \[2005\] NZEmpC 144; \[2005\] 1 ERNZ 808](#)

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