

*Under the Employment Relations Act 2000*

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON OFFICE**

**BETWEEN** David John Tindall & Rosalyn Adrienne Oakley (Applicant)

**AND** Watha Management Limited (First Respondent)

**AND** Cantab Management Limited (Second Respondent)

**AND** Wella Holdings Limited (Third Respondent)

**AND** Murray Osmond (Fourth Respondent)

**AND** Advisorcorp Inc Limited (Fifth Respondent)

**MEMBER OF AUTHORITY** Vicki Campbell

**DATE OF DETERMINATION** 9 February 2005

DETERMINATION OF THE AUTHORITY ON COSTS

- [1] In my determination dated 17 August 2004, I found that Mr Tindall was employed by Watha Management Limited and was successful in his claim for unjustified constructive dismissal against that company. I also found that Ms Oakley was not employed by any of the five respondents and was therefore not successful in her claims. Mr Tindall was awarded remedies. The issue of costs was reserved and I invited the parties to try to resolve this issue.
- [2] I have received costs submissions from Mr Tindall and Mr Young on behalf of Wella Holdings Limited. No submissions have been received from the representatives for Watha Management Limited, Advisorcorp Inc Limited, Murray Osmond, or Cantab Management Limited. Mr Young seeks an award of indemnity costs of \$14,750.00 plus disbursements of \$928.00. Mr Young has provided no evidence to support his claim for costs.
- [3] This case was important to the parties. The applicants named no fewer than five separate respondent parties of which Wella Holdings Limited was one. There was no written employment agreement and arguments over who was the employer, in my view, left the applicants with no option other than to name all possible respondents in order to allow the Authority to determine the matter.
- [4] The applicants were unrepresented at the Investigation Meeting, albeit they had received legal advice and assistance up to at least the week beforehand.

[5] After consideration of the submissions received I conclude that on balance as a matter of discretion in equity and good conscience costs should lie where they fall and it is so ordered.

Vicki Campbell  
Member of Employment Relations Authority