

*Under the Employment Relations Act 2000*

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND OFFICE**

**BETWEEN** Grant Woodhouse (Applicant)  
**AND** Bond St 2000 Ltd t/a Bond Street Lodge (Respondent)  
**REPRESENTATIVES** Ken Nicolson, Counsel for Applicant  
Bryce Quarrie, Counsel for Respondent (until 22 November 2005 only)  
**MEMBER OF AUTHORITY** Robin Arthur  
**SUBMISSIONS** 16 November 2005 (applicant only)  
**DATE OF DETERMINATION** 13 December 2005

**COSTS DETERMINATION**

[1] A determination issued on 27 September 2005 (AA 319/05) found the applicant was unjustifiably dismissed on 5 August 2005 and awarded him certain remedies.

[2] The parties were invited to agree costs with leave to file memoranda for a determination on costs if they were unable to agree that issue. On 31 October 2005 counsel for the parties filed a joint memorandum seeking a timetable for submissions on costs. A member's minute was issued setting a timetable. The minute noted that counsel would no doubt advise their clients of the modest range of costs usually awarded by the Authority as a reasonable contribution to the costs of the successful party following a one-day investigation meeting.

[3] The applicant filed submissions in compliance with that timetable. On the afternoon of the day before the respondent's costs submissions were due, respondent's counsel advised the Authority that he had instructions to cease acting in this matter and sought leave to withdraw as counsel.

[4] I am satisfied that the respondent had sufficient opportunity to make submissions on costs. It chose not to use it. If the respondent's last-minute withdrawal of counsel was intended as a tactic to delay costs being determined, it has not succeeded. I intend no criticism of counsel and leave to withdraw is granted. I now proceed to determine costs.

[4] Counsel for the applicant submits that the applicant, successful in his claim, is entitled to a reasonable contribution to his costs. Actual incurred costs were \$6950. He seeks \$5000 as a reasonable contribution.

[6] The Authority has a discretion, to be exercised on a principled basis, to award costs and expenses it considers reasonable. Awards of costs in the Authority are modest. Regard is had to the objects of the Employment Relations Act and effect of the Authority's investigative approach on the level of preparation and input required of the parties' representatives.

[7] The normal range of costs awarded in the Authority is discussed in *Harwood v Next Homes Limited* [2003] 2 ERNZ 433 and *Graham and Airways Corporation of New Zealand Limited* (unreported, ERA Auckland, AA39/04, 28 January 2004). The Court has recently confirmed in *PBO Limited v DaCruz* (unreported, EC Auckland, AC2A/05, 9 December 2005) that an average daily tariff may be used as a starting point along with having regard to the particular circumstances of this case.

[8] This matter was largely dealt with through a one-day investigation meeting. The applicant and the respondent's witnesses, Mr Giordani and Ms Duffy, were questioned during the meeting by the Authority member and counsel for both parties. The parties had provided short written witness statements and a number of documents in advance. One additional witness was interviewed on another day, by agreement, with counsel in attendance. Again by agreement, counsel for the respondent attended that interview by telephone. That second session took around 40 minutes. Written submissions were provided later.

[9] In this matter \$2000 is the appropriate daily rate for what was a straightforward investigation. That is within the range of the majority of cost awards for one day hearings in the Authority this year. There are no factors in this particular case that I consider warrant a different starting point or increasing or decreasing that amount. I allow an additional \$250 costs for attendance at the interview of the additional witness on another day.

[10] The applicant is also entitled to reimbursement of his filing fee of \$70.

[11] **The respondent is ordered to pay the applicant the sum of \$2320 as a contribution to his costs and expenses.**

Robin Arthur  
Member of Employment Relations Authority