

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Nigel Clements (Applicant)
AND Water Treatment Products Limited (Respondent)
REPRESENTATIVES David Bruce, Advocate for Applicant
Murray Falloon, Advocate for Respondent
MEMBER OF AUTHORITY Leon Robinson
SUBMISSIONS RECIEVED 18 July 2005
2 August 2005
DATE OF DETERMINATION 3 August 2005

DETERMINATION OF THE AUTHORITY

The Application for Costs

[1] By a Determination dated 6 July 2005¹, I resolved the employment relationship problem between these parties by determining that the applicant Mr Nigel Clements (“Mr Clements”) had been unjustifiably dismissed. I made orders that the respondent Water Treatment Products Limited pay to Mr Clements the gross sum of \$9,300.00 as reimbursement and \$5,000.00 as compensation.

[2] The parties were invited to resolve costs between them but they were unable to agree. The representatives have lodged memoranda to assist me in the exercise of my discretion.

Costs in the Authority

[3] The principles and rules conventionally applied to applications for costs in traditional adversarial or trial litigation do not fit with the Investigative role of the Authority and the objects of the legislation which establishes it. Those principles and rules continue to remain relevant however and the overall question is to determine what is a reasonable contribution to reasonable costs incurred. The Authority adopts a principled approach taking into account relevant matters and taking no account of irrelevant ones.

¹ AA252/05

The claims for costs

[4] Mr Bruce advises Mr Clements' actual costs are \$1,927.00 (including GST). It is the GST exclusive portion which is relevant for present purposes in the sum of \$1,625.00 excluding disbursements. Mr Bruce asks for an award of the sum of \$1,927.00. Such an award would be a full indemnity and that would not be warranted.

[5] Mr Falloon in reply, says that Mr Bruce's claim for costs of travel from Auckland to Tauranga is unfair and that the costs now sought are not reasonable. I agree that Water Treatment Products Limited should not have to pay for Mr Clements choice of an Auckland representative.

Determination

[6] Mr Clements' actual costs are reasonable in quantum and are reasonably incurred. He was successful in his claim and costs will follow that event by an award in his favour.

[7] I fix liability by determining that Water Treatment Products Limited shall contribute to Mr Clements' costs in the amount of \$1,000.00. Exercising my discretion on a principled basis, **I order Water Treatment Products Limited to pay to Nigel Clements the sum of \$1,000.00 as a contribution to costs.**

Leon Robinson

Member of Employment Relations Authority