

*Under the Employment Relations Act 2000*

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH OFFICE**

**BETWEEN** Roya Amini-Tu'inukuafe (Applicant)

**AND** Work & Income, a division of the Ministry of Social Development  
(Respondent)

**REPRESENTATIVES** Roya Amini-Tu'inukuafe In person  
Aaron Martin, Counsel for Respondent

**MEMBER OF AUTHORITY** Philip Cheyne

**SUBMISSIONS RECEIVED** 19 August 2005  
29 August 2005

**DATE OF DETERMINATION** 30 August 2005

**COSTS DETERMINATION OF THE AUTHORITY**

[1] In a determination dated 27 June 2004, I found that Mrs Amini-Tu'inukuafe did not have any valid personal grievance or other employment relationship problem in respect of her employment at the Ministry of Social Development. Costs were reserved.

[2] The Ministry now seeks an order of costs against Mrs Amini-Tu'inukuafe and I have submissions from the Ministry lodged on 19 August and a response from Mrs Amini-Tu'inukuafe lodged on 29 August 2005.

[3] The Ministry was represented by Crown Law whose costs are \$12,300.00 (excluding GST) and with disbursements of \$839.58 (excluding GST). The Ministry seek recovery of the disbursements in full and \$8,100.00 as a contribution to its costs. I am reminded by the Ministry that the statement of problem referred to 12 different amounts of compensation or penalty plus ancillary orders and two other general claims. After some careful analysis of the claims, it was obvious that some of them were unsustainable. However, it took some attention to detail on the part of counsel before that became apparent. There was also a significant amount of written material required by the applicant and provided by the respondent before the investigation meeting. Little of it was actually referred to directly during the meeting but, again, I accept counsel's point that it had to be reviewed and costs were properly incurred as a result. In addition, the meeting took two days and we took evidence from eight witnesses, six of them presented by the Ministry. Given the unnecessarily complex way the matter was advanced by the applicant, I do not doubt that the costs incurred by the respondent are reasonable.

[4] The difficulty lies in assessing what is a reasonable contribution to those costs. Mrs Amini-Tu'inukuafe has provided some summary information about her bank accounts which shows an overdraft on one account and a modest lesser credit balance on another account since January 2005. In addition, Mrs Amini-Tu'inukuafe, while currently employed, took a lower salary than she had

with the Ministry when she started her present position. Mrs Amini-Tu'inukuafe's situation may not be as difficult as that suggests as we know that she was able to purchase a section near Christchurch and build a house following the sale of her property in Auckland. Mrs Amini-Tu'inukuafe's net asset position is unclear.

[5] On the basis of the material available, I intend to give Mrs Amini-Tu'inukuafe some benefit of the doubt and moderate the cost award that would otherwise have been made but the award must still be realistic when assessed against the Ministry's costs. Accordingly, I order Mrs Amini-Tu'inukuafe to pay the Ministry a total of \$6,000.00 as a contribution to its costs and disbursements.

Philip Cheyne  
Member of Employment Relations Authority