

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH OFFICE**

BETWEEN Brian Duncan (Applicant)
AND North Otago Ag-Centre Limited (Respondent)
REPRESENTATIVES David Polson, Counsel for Applicant
Janie Kilkelly, Counsel for Respondent
DATE OF DETERMINATION 29 May 2006

COSTS DETERMINATION OF THE AUTHORITY

[1] On 9 May 2006 I issued the Authority's determination of this matter and reserved the issue of costs while inviting the parties to attempt to resolve this issue between them.

[2] On 29 May 2006, Ms Kilkelly contacted the support officer indicating that she understood the applicant was in receipt of legal aid.

[3] I have revisited the file and accept that Mr Polson, by way of a letter attached to the applicant's statement of evidence, advised the Authority of his client's legally aided status on 4 November 2005. I overlooked this letter while preparing the determination.

[4] Accordingly, there is no need for Ms Kilkelly to file a memorandum on costs and I apologise for any confusion caused.

[5] But for being legally aided, I would have awarded substantial costs in favour of the respondent. However, the Authority is restricted by the Legal Services Act 1991 as I find there are no exceptional circumstances in this particular case.

[6] I order the applicant to pay the respondent a sum equal to the amount he was required to pay in support of his application for legal aid.

Paul Montgomery
Member of Employment Relations Authority