

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH OFFICE**

BETWEEN Firestone Employees Society Inc and others (Applicants)

AND Bridgestone New Zealand Limited (Respondent)

REPRESENTATIVES Scott G Wilson, Counsel for the Applicants
Glenn Jones, Counsel for the Respondent

SUBMISSIONS RECEIVED 20 December 2005
10 February 2006

MEMBER OF AUTHORITY Paul Montgomery

INVESTIGATION MEETING 17 May 2005

DATE OF DETERMINATION 22 May 2006

COSTS DETERMINATION OF THE AUTHORITY

The costs application

[1] On 21 October 2005, I issued a determination of the employment problem between the parties. I encouraged the parties to attempt to resolve costs issues between themselves. Despite their attempts, no agreement has emerged and it falls to the Authority to determine the matter.

[2] Mr Wilson seeks a contribution of \$2,000 to the applicants' actual costs of \$8,437.50 (including GST).

[3] For the respondent, Mr Jones submitted that given what he termed *an honourable draw*, costs should lie where they fall.

Discussion

[4] Mr Wilson submits that costs should follow the event and that the applicants succeeded on issues most important to them and further, they secured a modest penalty in the substantive investigation.

[5] Mr Jones submits that the penalty was not awarded to the applicants, but to the Crown, and that the applicants failed to sheet home all of their claims. It is on the basis that each side had *won* three of the points at issue that he submits costs lie where they fall.

[6] This was an issue put before the Authority as a personal grievance claim of unjustified disadvantage. I found the applicants were not disadvantaged but that the letters to the applicants were poorly presented and ordered they be withdrawn from the applicants' files.

[7] I do not entirely agree that this was an *honourable draw*. The respondents had been ordered to remove the letters as written. They were at the heart of this issue.

[8] In a sense, this case was akin to a dispute of rights but was presented as a personal grievance action.

[9] The Authority has considered the issues in the light of *PBO Ltd v Da Cruz* AC2A/05, a Full Court decision regarding principles the Authority needs to consider in a costs setting.

Determination

[10] Having considered the on point submissions from counsel and considered what is just in this particular set of circumstances, I order that the respondent pay the first applicant the sum of \$1,200 as a contribution to what I find were reasonably incurred costs.

Paul Montgomery
Member of Employment Relations Authority