

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH OFFICE**

BETWEEN Lesley Susan Carson (Applicant)
AND Familton Holdings Ltd t/a Amada Motor Inn (Respondent)
REPRESENTATIVES Rob Davidson, Counsel for Applicant
M J de Buyzer
MEMBER OF AUTHORITY Philip Cheyne
SUBMISSIONS - APPLICANT 19 September 2006
- RESPONDENT 13 October 2006
DATE OF DETERMINATION 18 October 2006

COSTS DETERMINATION OF THE AUTHORITY

[1] In a determination dated 2 August 2006 I upheld Ms Carson's personal grievance claim, awarded compensation and reserved costs. Counsel for Ms Carson lodged and served a memorandum on costs as has counsel for Familton Holdings Limited. This determination resolves the disputed question of costs.

[2] Ms Carson is legally aided so her legal costs are restricted to \$3,035.00. The claim was relatively straight forward with evidence from Ms Carson and a statement from her brother. There was only one witness for the respondent. Two phone conferences were required because the respondent failed to attend the first investigation meeting, the Authority later received information suggesting that the respondent's manager was unwell and arrangements were made for a second meeting. The documentation was not substantial although Counsel did have to make arrangements for Ms Carson to provide some additional documents at the Authority's request. Total time for the investigation meetings was less than one day.

[3] Both counsel have referred me to *PBO Ltd (formerly Rush Security Ltd) v Da Cruz*, 9/12/2005, Colgan CJ, Travis & Shaw JJ, AC2A/05. In that case, a full bench of the Employment Court set out principles that apply when the Authority is determining costs.

[4] There is no reason to depart from the usual approach that costs follow the event. Application of a daily tariff approach is appropriate as the matter was a standard personal grievance of constructive dismissal. Counsel for Ms Carson argued for an award of \$3,000.00 but I do not accept it would be appropriate to make an award at the top end of the usual daily range for a one day meeting. Counsel for the respondent argued for an award of \$2,000.00. That is the bottom of the range of awards for a one day meeting. It takes account of the extra costs caused by the respondent's failure to attend or notify the Authority prior to the first meeting and the arrangements for the second meeting.

[5] Accordingly, I order the respondent to pay Ms Carson \$2,000.00 as a contribution towards her legal costs.

Philip Cheyne
Member of Employment Relations Authority