

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH OFFICE**

BETWEEN Reg Phillips (Applicant)
AND iTAG Ltd (Respondent)
REPRESENTATIVES Ian Thompson, Advocate for Applicant
Penny Shaw, Advocate for Respondent
MEMBER OF AUTHORITY Paul Montgomery
SUBMISSIONS RECEIVED 23 November 2006
8 December 2006
DATE OF DETERMINATION 11 January 2007

COSTS DETERMINATION OF THE AUTHORITY

[1] When issuing the determination of the substantive matter on 24 October 2006, I invited the parties to resolve the issue of costs between themselves. They have been unable to do so. The Authority has received submissions from both parties and having considered these, I am able to determine the costs.

[2] Ms Shaw refers the Authority to the leading case on costs in proceedings before the Authority, *PBO Ltd (formerly Rush Security Ltd v Da Cruz* [2005] 1 ERNZ 808, and sets out the principles the Authority is to apply when considering costs. Ms Shaw urges that I take into account the applicant's stated intention to resign, his contribution to the situation which gave rise to the grievance and the fact that the respondent is a small business. Finally, the respondent's representative submits that this is a case in which it is appropriate to let costs lie where they fall.

[3] Mr Thompson, for the applicant, submits that his client's costs in relation to the Authority investigation were \$4,477.00 exclusive of GST. He submits that these costs were reasonably incurred and seeks a contribution of \$2,954.00 or 66% of his client's actual costs.

[4] In considering the submissions of each party's representatives I am not satisfied that this is a case in which costs should lie where they fall. The applicant, as the successful party, is entitled to a contribution to what I find are reasonably incurred costs. In respect of his contribution to the circumstances giving rise to the grievance, I have already addressed that issue in the substantive decision and do not regard it as relevant in a costs setting.

[5] However, I have considered Ms Shaw's submissions that it was clear the applicant intended to resign and would at some stage be leaving employment with the respondent. I am also mindful that the Investigation Meeting was completed in approximately 5 hours.

[6] In all the circumstances, I am of the view that a costs award of \$2,000.00 as a contribution to the applicant's costs is appropriate and just in this case.

Paul Montgomery
Member of Employment Relations Authority