

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

AA 46A/08  
5089590

BETWEEN                      SHARON LEE  
   Applicant

AND                              MINOR DEVELOPMENTS  
   LTD T/A BEFORE SIX  
   EARLY EDUCATION CHILD  
   CENTRE  
   Respondent

Member of Authority:        Dzintra King

Submissions received:        No submissions from Applicant  
   27 March 2008 from Respondent

Determination:                31 March 2008

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**COSTS DETERMINATION OF THE AUTHORITY**

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[1] I found that the applicant, Ms Lee, had her personal grievance claim in that she had been unjustifiably dismissed. She was awarded \$2,000 compensation. The parties have been unable to agree costs. The respondent seeks costs

[2] The respondent sent Ms Lee a Calderbank letter on 6 September 2007. The offer was open until 13 September. The matter was heard on 29 November 2007.

[3] The respondent submits that while will generally be awarded to the successful party the Authority has the discretion to award costs to any party. The applicant was only partially successful as her claims for disadvantage, misrepresentation and breach of good faith were not sustained. I accept the respondent's view that these claims unnecessarily prolonged the hearing and contributed to the amount of preparation that needed to be carried out.

[4] The respondent has incurred legal costs of \$12,759.82 (including GST) since the Calderbank offer was made. These could have been avoided had the applicant accepted the offer.

[5] The respondent asks for a \$2000 contribution towards its costs, together with an award of interest from the date of the costs determination.

[6] While normally the applicant would have been entitled to a contribution towards her reasonably incurred costs, in the absence of any memorandum I have no information regarding her costs.

[7] I am persuaded by the existence of the Calderbank letter and the fact that the amount of preparation was unnecessarily increased by the nature of the claims (which were not upheld) that the applicant should pay part of the respondent's costs. The amount claimed is modest and I order that the applicant pay the sum of \$2,000 to the respondent.

Dzintra King

Member of the Employment Relations Authority