

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 304A/09
5132982

BETWEEN DAVID TELFER AND
 LARRAINE ANDERSON
 Applicant

AND COROMANDEL DAIRY
 TRUST LIMITED (IN
 LIQUIDATION)
 Respondent

Member of Authority: Marija Urlich

Representatives: Alan Taylor, for Applicants
 Craig Alexander Sanson and John Howard Ross Fisk,
 liquidators appointed to Respondent

Submissions received: 26 August 2009, from Applicant

Determination: 12 November 2009

COSTS DETERMINATION OF THE AUTHORITY

[1] In a determination dated 26 August 2009 (AA304/09) I found the applicants were unjustifiably dismissed and awards were in their favour. Costs were reserved and a timetable for the filing of costs memoranda set.

[2] In his memorandum to the Authority Mr Taylor advises Mr Telfer and Ms Anderson's costs in relation to this matter exceed \$9220 (including GST). He submits the respondent should make a contribution to those costs of \$3000 because the respondent's conduct warrants an award of costs at the higher end of the usual range awarded in the Authority.

[3] No costs memoranda have been filed on behalf of the respondent.

Determination

[4] *PBO Ltd v Da Cruz*¹ sets out the appropriate principles to be applied by the Authority in exercising of its costs discretion.

[5] It is usual that costs follow the event and I find that an award of costs is warranted in this matter. The respondent failed to participate cooperatively with the Authority's investigation and I accept this has required the applicant's to incur additional costs.

[6] Accepting a notional daily tariff of \$3000 per day as an appropriate starting point for costs in the Authority², the significance of the issues to the parties and the actual hearing time I set the costs award at \$3000.

[7] Coromandel Dairy Trust Limited (in liquidation) is ordered to pay \$3000 in total to Mr Telfer and Ms Anderson in costs pursuant to Schedule 2 clause 15 of the Employment Relations Act 2000.

Marija Urlich

Member of the Employment Relations Authority

¹ [2005] 1 ERNZ 808

² *Chief Executive, Department of Corrections v Tawhiwhirangi (No 2)* [2008] ERNZ 73.