

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

WA 82/09  
5091701

BETWEEN                      CENTRAL AMALGAMATED  
   WORKERS' UNION  
   First Applicant

AND                              ALLAN BLUMSDON &  
   OTHERS (as per attached  
   schedule)  
   Second Applicants

AND                              BRIDGEMAN CONCRETE  
   (HAWKES BAY) LIMITED  
   Respondent

Member of Authority:      G J Wood

Representatives:            Peter Cranney for the Applicants  
   Gary Tayler for the Respondent

Submissions Received:    By 8 June 2009

Determination:              12 June 2009

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**COSTS DETERMINATION OF THE AUTHORITY**

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[1]      In my substantive determination I concluded that the second applicants, all members of the first applicant union, had been discriminated in their employment by reason indirectly of union activities and were therefore entitled to be paid a bonus by Bridgeman Concrete, which had been withheld from them since Christmas 2006. I dismissed the union's claims because it could not be party to personal grievances.

[2]      On behalf of the union and the second applicants, Mr Cranney sought a contribution to costs of \$5,000 plus GST, plus disbursements. This was done on the basis that his clients were successful and an award of two-thirds of actual costs should be made.

[3] On behalf of Bridgeman, Mr Tayler submitted that it should be awarded costs because it was successful in defending the claim brought by the union, and that the second applicants had incurred no costs, as these were incurred by the union. In a claim for \$360 plus GST, Mr Tayler noted that the investigation meeting took little more than an hour, followed by written submissions.

[4] There is no merit in the claim that the second applicants are not entitled to costs because the costs were incurred by the union, see for example *IHC New Zealand Inc v. Scott* (unreported, Perkins J, AC45A/06, 18 October 2006).

[5] Bridgeman was successful in defending the claim against the union for lack of jurisdiction. That matter, however, was dealt with in less than five minutes and therefore no costs should be awarded over such a minor issue.

[6] The second applicants are entitled to an award of costs in their favour, as they were successful in demonstrating that they had been discriminated in their employment and had to come to the Authority to pursue their claim. While the investigation meeting took only an hour or so, I accept that there was substantial preparation required for the meeting and the submissions process. In all the circumstances of this case, an award of \$2,000 costs is appropriate.

[7] I therefore order the respondent, Bridgeman Concrete (Hawkes Bay) Limited, to pay the total sum of \$2,000 plus disbursements of \$146, to the second applicants, whose names are set out in the attached schedule. For the avoidance of doubt I note that these costs and expenses, although made in favour of the second applicants, may be used to appropriately reimburse the union, if such arrangements have been made between the applicants, see for example *O'Malley v. Vision Aluminium Ltd (No 3)* [1992] 2 ERNZ 1043.

**G J Wood**  
**Member of the Employment Relations Authority**