

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

WA 6A/10
5275410

BETWEEN Tikaokao McClutchie
 Applicant

AND Shane Parore t/a Thirsty Dog
 Bar & Café
 Respondent

Member of Authority: Denis Asher

Representatives: Michael McAleer for Ms McClutchie
 No appearance by or for Mr Parore

Submissions received: 28 January 2010

Determination: 18 February 2010

COSTS DETERMINATION OF THE AUTHORITY

[1] In my determination dated 14 January 2010 (WA 06/10) I found in favour of Ms McClutchie's claim that she had been unjustifiably dismissed.

[2] Ms McClutchie is legally aided.

[3] Costs were reserved. In my substantive determination I indicated that costs sought by Mr McAleer on behalf of his client of \$2,000 plus GST were, subject to submissions from Mr Parore, realistic and within the range typically awarded for cases like Ms McClutchie's, notwithstanding the fact the investigation was concluded within half a day (par 46).

Applicant's Costs Submissions Summarised

[4] In costs submissions received on 28 January 2010 counsel for Ms McClutchie, Mr Michael McAleer, advised that in fact she was seeking costs of \$1,500 plus GST, plus the \$70 filing fee. Costs sought are reasonable and within the range typically award for matters such as this. There has been no response from Mr Parore in respect of this and other matters.

Mr Parore's Position

[5] No communications have been received from Mr Parore.

Discussion and Findings

[6] As with the substantive investigation, Mr Parore has not participated in this matter. All efforts to communicate with him to date have been unsuccessful. Notice of the substantive application was served on Mr Parore by the applicant. He did answer his portable phone at the start of the Authority's original telephone conference on 21 December 2009 but he did not remain connected to that call. My message left on Mr Parore's phone on the morning of the investigation has gone unanswered as have attempts by Authority support staff to contact the respondent. Mr McAleer advises his client's costs submission was sent to Mr Parore by email and posted to his work and home addresses.

[7] Having regard to the, albeit unsuccessful efforts to draw a response from Mr Parore I am satisfied that it is appropriate to proceed to determine the costs question.

[8] The Authority's discretion with which to award costs is now well settled and typically follows the event: *PBO Limited (formerly Rush Security Limited) v Da Cruz* [2005] 1 ERNZ 808.

[9] I am satisfied that, in all the circumstances, a costs award of \$1,500 against Mr Parore and a direction to pay the \$70 filing fee are entirely appropriate.

Determination

[10] Mr Parore is to pay to Ms McClutchie as a contribution to her fair and reasonable costs \$1,500 (one thousand five hundred dollars) and the \$70 (seventy dollar) filing fee.

Denis Asher

Member of the Employment Relations Authority