

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2011] NZERA Auckland 261
5311208

BETWEEN BRUCE PRESTON
 Applicant

AND TRANSPORTATION
 AUCKLAND CORPORATION
 LIMITED trading as NZ BUS
 Respondent

Member of Authority: Alastair Dumbleton

Submissions Received 4 May 2011, from Respondent only

Determination: 17 June 2011

COSTS DETERMINATION OF THE AUTHORITY

[1] In a Determination dated 13 April 2011, the Authority found that Mr Bruce Preston did not have any personal grievance in relation to his claim of unjustified dismissal or his claim of unjustified disadvantage raised by him after his employment with Transportation Auckland Corporation Limited, or NZ Bus, had terminated. The Authority found that Mr Preston had ended the employment himself by resigning and that before then NZ Bus had acted in a way that a fair and reasonable employer would have done in the circumstances.

[2] The Authority reserved the question of costs for the parties' representatives, Mr Taylor and Ms Douglas, to discuss and try and resolve. No settlement was reached and an application for costs has been made on behalf of NZ Bus. No response from Mr Preston or on his behalf has been received.

[3] It is submitted that NZ Bus was wholly successful in responding to the personal grievances that were investigated and determined by the Authority. It is submitted that Mr Preston's claims were entirely lacking in merit, given that he resigned from his employment after finding work with another employer without

telling NZ Bus. Two other claims he brought appear later to have been recognised by Mr Preston as unmeritorious and were withdrawn by him before the investigation meeting took place.

[4] It is submitted that costs usually follow the event and that the normal tariff of \$3,000 per day of investigation meeting may be applied in this case to justly compensate NZ Bus for costs actually incurred. \$3,000 is sought as a reasonable contribution to total costs of \$5,367 which includes GST and disbursements. An order is sought for Mr Preston to pay \$3,000 to NZ Bus as a reasonable contribution to its costs.

[5] Compared with the costs incurred by many parties in the Authority, and particularly where as in this case experienced counsel have provided representation, the total costs to NZ Bus for this reasonably standard type of personal grievance claim in both the nature of it and the requirements for preparation and presentation of it, were very modest. The legal representation of NZ Bus was also very effective, as the company was found not to have breached the employment law in any way. It is commendable that the Employers' and Manufacturers' Association is able to provide a professional legal service at this level of cost, a level that should embarrass if not shame some practitioners who have provided advice to the Authority of costs far in excess of these which have been charged to clients for representation before the Authority in this type of case.

Determination

[6] The claim for costs is in accordance with principle and is entirely reasonable. In the exercise of its discretion, the Authority orders Mr Bruce Preston to pay \$3,000 to NZ Bus, pursuant to clause 15 of Schedule 2 of the Employment Relations Act 2000.

A Dumbleton
Member of the Employment Relations Authority