

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2011] NZERA Auckland 390
5310190

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| BETWEEN | JOHN MCKINNEY Applicant |
| AND | TRANSPORTATION AUCKLAND CORPORATION LIMITED Respondent |

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| Member of Authority: | K J Anderson |
| Representatives: | G Froggatt, Advocate for Applicant J Douglas, Counsel for Respondent |
| Submissions received: | 22 July 2011 from Respondent Nil from Applicant |
| Determination: | 9 September 2011 |

COSTS DETERMINATION OF THE AUTHORITY

[1] In a determination dated 23rd June 2011¹ the Authority found that the dismissal of Mr McKinney was justified. The parties were invited to resolve the issue of costs but have not been able to obtain resolution. Submissions on costs have been received from the respondent only.

[2] The respondent submits that it has incurred costs of \$5,841.15 (including GST and disbursements) and while details have not been provided, I accept that the costs incurred are reasonable in all the circumstances of the case. In recognition of the tariff based approach of the Authority, the respondent seeks a contribution from Mr McKinney in the sum of \$3,000 for a one day hearing. The respondent submits that because of the delay in the filing and service of the applicant's witness statements, this created some difficulty for the respondent in its preparation of its witness statements and this should be reflected in the award of costs. As there is no material

¹ [2011] NZERA Auckland 271

evidence that the costs incurred by the respondent were increased due to any alleged lapse by the applicant, I do not see this as a factor that can be given any weight.

[3] The notes of the Authority reveal that the investigation meeting was comfortably completed within half of a day, that there was nothing particularly exceptional about the case and both parties prepared for and conducted their respective cases efficiently.

Determination

[4] Given the overall circumstances, I conclude that it is appropriate that Mr McKinney should make a reasonable contribution to the costs incurred by the respondent and he is ordered to pay to Transportation Auckland Corporation Limited the sum of \$1,500.00.

K J Anderson
Member of the Employment Relations Authority