

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

[2011] NZERA Wellington 105  
5323216

BETWEEN

TREVOR DAVIDSON  
Applicant

AND

BLEDISLOE NEW ZEALAND  
t/a GEE & HICKTON  
FUNERAL DIRECTORS  
Respondent

Member of Authority: G J Wood

Representatives: G O'Sullivan for the Applicant  
P Macdonald for the Respondent

Investigation Meeting: By way of submissions received by 19 May 2011

Determination: 16 June 2011

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**COSTS DETERMINATION OF THE AUTHORITY**

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[1] In my substantive determination, I found that while the applicant, Mr Davidson, was justifiably issued with a final warning, the stopping of Mr Davidson's pay and the refusal to allow him to return to work thereafter constituted an unjustifiable disadvantage. He was awarded two months' pay and \$5,000 in compensation.

[2] Mr Davidson seeks costs in excess of the normal tariff because the conduct of the respondent, Gee & Hickton, unnecessarily added to the costs incurred by him. In particular, Mr Davidson relies on a letter from his representative seeking full solicitor/client costs unless Mr Davidson was immediately reinstated on pay. On the basis of this notice, a significant contribution to his total costs of \$8,209, namely \$5,746, is sought.

[3] In response, Gee & Hickton noted that the final warning that had been challenged was found to be justified, which ought to be taken into account in costs.

Therefore, it was submitted that costs should be set at \$2,000 plus GST, plus the filing fee.

[4] I accept that both parties had a measure of success in that Mr Davidson was not successful in his claim to have been unjustifiably warned, as opposed to his claim that Gee & Hickton had unjustifiably stopped his pay and refused to allow him to return to work.

[5] This matter was efficiently investigated within one day. In the normal course of events, Mr Davidson could expect to receive a contribution of \$3,000 to his costs. However, I accept Gee & Hickton's submissions that this ought to be reduced somewhat to reflect the failure to succeed on the claim for an unjustified warning, as well as those of Mr Davidson costs should reflect that his pay should never have been stopped and that he should have been allowed to return to work.

[6] These two submissions effectively balance each other out. In all the circumstances I consider an appropriate contribution towards costs is \$3,000, plus the filing fee. I therefore order the respondent, Bledisloe New Zealand Limited, to pay to the applicant, Trevor Davidson, the sum of \$3,000 in costs, plus \$71.56 in expenses.

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