

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**[2011] NZERA Auckland 299
5303755**

BETWEEN

ALAN SLATER
Applicant

AND

TRANSPORTATION
AUCKLAND CORPORATION
LIMITED t/a NZ BUS
Respondent

Member of Authority: Alastair Dumbleton

Submissions Received 30 May and 7 July 2011

Determination: 8 July 2011

COSTS DETERMINATION OF THE AUTHORITY

[1] The applicant, Mr Alan Slater, and the respondent, Transportation Auckland Corporation Limited t/a NZ Bus, in November and December 2010 took part in an investigation into Mr Slater's claim that he had been unjustifiably dismissed by NZ Bus from employment as a bus driver.

[2] The Authority (Member James Wilson) in a determination dated 28 April 2011 ([2011] NZERA Auckland 170) found that Mr Slater's dismissal was justifiable because he had performed his job badly.

[3] In accordance with directions given by the Authority in its determination, an application for costs has been made by NZ Bus. Mr Slater through his union responded to the application, but several days outside the period allowed for that.

[4] The application is made on the basis that usual principles should apply, namely that costs follow the event and the successful party should be entitled to a reasonable contribution to actual legal costs. They were \$7,079 (including GST and disbursements).

[5] The investigation meeting was of one day duration. There was a significant amount of preparation required for the witnesses and documents presented to the Authority at the investigation.

[6] NZ Bus applies for an award on the basis of the “usual tariff” of about \$3,000 per day. It is submitted that this is a reasonable award in the circumstances. For Mr Slater it is submitted that he is unable to pay costs, but no evidence of inability has been provided.

[7] I agree with NZ Bus that its actual costs were reasonable and that \$3,000 will represent a reasonable contribution to those.

[8] Accordingly, exercising the discretion the Authority has pursuant to clause 15 of Schedule 2 of the Employment Relations Act 2000, it orders Mr Alan Slater to pay \$3,000 costs to NZ Bus.

A Dumbleton

Member of the Employment Relations Authority

(Pursuant to clause 16 of Schedule 2 of the Employment Relations Act 2000)