

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2013] NZERA Auckland 469
5410131

BETWEEN PAUL JACKSON
 Applicant

A N D TRANSPORTATION
 AUCKLAND CORPORATION
 LIMITED
 Respondent

Member of Authority: Anna Fitzgibbon

Representatives: Gary Froggatt, Advocate for Applicant
 David Gould, National Human Resources Manager for
 Respondent

Submissions Received: 16 September 2013 from Respondent
 No submissions from Applicant

Date of Determination: 11 October 2013

COSTS DETERMINATION OF THE AUTHORITY

**A. Mr Paul Jackson is ordered to contribute \$3000 towards
Transportation Auckland Corporation Limited's costs.**

[1] In a determination of the Authority dated 06 September 2013¹ the Authority dismissed Mr Jackson's employment relationship problem. Transportation Auckland Corporation Limited (TACL) having successfully defended the claim brought by Mr Jackson was asked to file and serve a memorandum as to costs within 14 days of the date of the Authority's determination. Mr Jackson was given 14 days from receipt of TACL's memorandum as to costs to file his memorandum as to costs.

¹ [2013] NZERA Auckland 406

[2] TACL filed and served a memorandum of costs seeking a contribution of \$3000 to its costs. TACL submitted that a contribution to its costs of \$3000 by Mr Jackson would be an appropriate and reasonable contribution. Mr Jackson did not file a memorandum as to costs in response.

[3] The Authority's power to award costs arises from Schedule 2, clause 15 of the Employment Relations Act 2000 (the Act). This confers a wide discretion on the Authority to award costs, on a principled basis.

[4] The principles guiding the Authority's approach to costs are set out by the Full Employment Court in *PBO Ltd (formerly Rush Security Ltd) v. Da Cruz* [2005] 1 ERNZ 808. Those principles are so well recognised I do not need to restate them.

[5] The general principle is that costs follow the event, and I see no reason to depart from that in this case. Accordingly, TACL as the successful party is entitled to a contribution towards its costs.

[6] The Employment Court in *Carter Holt Harvey v. Eastern Bays Independent Industrial Workers Union & Ors*² observed that a notional daily tariff approach, which was to be adjusted in a principled way, was best suited to the Authority's unique jurisdiction. I adopt that approach.

[7] TACL says it's actual costs to defend Mr Jackson's claim amounted to \$5500 but seeks an order that Mr Jackson pay \$3,000 costs. The normal starting point for costs in the Authority is \$3500 per day, *Fifita (aka Bloomfield) v. Dunedin Casinos Limited*³.

[8] This matter involved an investigation meeting of almost one full day. No reasons were advanced on behalf of Mr Jackson seeking an adjustment of that notional tariff. Despite the notional daily tariff being \$3500 for a one day investigation meeting, TACL seeks a contribution of \$3000 towards its costs.

² [2011] NZEmpC

³ [2012] NZERA Christchurch 219

[9] Accordingly, I order Mr Jackson to contribute \$3000 towards the costs of TACL.

Anna Fitzgibbon
Member of the Employment Relations Authority