

**IN THE EMPLOYMENT RELATIONS AUTHORITY
OFFICE**

[2013] NZERA Christchurch 249
5405718

BETWEEN

BERNARD YEATMAN
Applicant

AND

HOSANNA BAPTIST
COMMUNITY CHURCH
TRADING AS SHORELINE
CLEANING SERVICES
Respondent

Member of Authority: Christine Hickey

Representatives: Fiona McMillan, Counsel for the Applicant
The Respondent was not represented

Submissions received: From the applicant on 3 October 2013
No Submissions on costs received from the respondent

Determination: 3 December 2013

COSTS DETERMINATION OF THE AUTHORITY

Hosanna Baptist Community Church trading as Shoreline Cleaning Services is to pay Bernard Yeatman \$1,650 towards his legal costs plus the filing fee of \$71.56.

[1] On 6 September 2013 the Authority issued a determination that Shoreline Cleaning Service had to pay Mr Yeatman unpaid holiday pay, underpaid wages, payments for alternative holidays not taken and compensation of \$5,000.

[2] Mr Yeatman has applied for legal costs of \$3,500. His full costs are \$5,500 excluding GST. No submissions on costs have been received from the respondent.

[3] Each case is to be treated in light of its own circumstances. The primary purpose of costs is to compensate the successful party. Mr Yeatman was successful in his claims and is entitled to a reasonable and modest contribution towards his costs.

[4] The Authority's jurisdiction to make costs orders is found in clause 15 of Schedule 2 of the Act. Costs are at the discretion of the Authority.

[5] The principles and the approach adopted by the Authority on which an award of costs is made are well settled and were outlined in *PBO Limited (formerly Rush Security Ltd) v Da Cruz*¹ a judgment of the Full Court of the Employment Court. The Court in the *Da Cruz* case also noted that in exercising its discretion the Authority frequently judges costs against a notional daily hearing rate. That notional rate is currently \$3,500 per day.

[6] The hearing took just under one hour. The respondent was not represented.

[7] Ms McMillan submits that she had to do the same amount of preparation as if the claim was going to be defended and as if it was to take a whole day and so the costs awarded should be \$3,500.

[8] However, this was a straight-forward matter and even had the respondent been represented it would have taken no more than half a day.

[9] In all the circumstances it is reasonable that the respondent pay a contribution of \$1,650 towards Mr Yeatman's costs.

[10] The respondent should also reimburse Mr Yeatman for the cost of filing his claim with the Authority; that is \$71.56.

Christine Hickey
Member of the Employment Relations Authority

¹ [2005] ERNZ 808