

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

[2016] NZERA Wellington 32
5605025

BETWEEN BROADSPECTRUM (NEW
 ZEALAND) LIMITED (formally
 TRANSFIELD SERVICES (NEW
 ZEALAND) LIMITED)
 Applicant

AND JASON NATHAN
 Respondent

Member of Authority: M B Loftus

Representatives: Richard Upton, Counsel for Applicant
 Jason Nathan, on his own behalf

Submission received: 25 February and 4 March 2016 from Applicant
 2 March 2016 from Respondent

Determination: 11 March 2016

COSTS DETERMINATION OF THE AUTHORITY

[1] On 1 February 2016 I issued a determination¹ in which I found in favour of Broadspectrum with respect to a dispute about where it could employ Mr Nathan following an earlier order he be reinstated.²

[2] Costs were reserved and Broadspectrum, as the successful party, now seeks a contribution toward its costs.

[3] It is accepted that in the normal course of events costs follow the event and normally the Authority will use a daily tariff approach when addressing such a claim.³ The normal starting point is \$3,500 per day and from there adjustment may be made depending on the circumstances.

¹ [2016] NZERA Wellington 15

² *Jason Nathan v Transfield Services (New Zealand) Limited* [2015] NZERA Wellington 120

³ refer *PBO Ltd (formerly Rush Security Ltd) v Da Cruz* [2005] ERNZ 808

[4] The investigation meeting took approximately half a day which would mean, applying the above approach, an award in the order of \$1750. That is what Broadspectrum seeks, along with reimbursement of its filing fee. The total sought is \$1,821.56.

[5] Mr Nathan's response is just over two pages. That said all but three lines is devoted to assertions Broadspectrum has failed to properly pay amounts awarded in the determination that ordered his reinstatement.⁴ He goes on to propose these payments be used to offset or contribute toward *any Costs that I owe regarding the second Determination February 2016*.

[6] On behalf of Broadspectrum Mr Upton responds with:

... even if Broadspectrum does owe him remuneration (which is denied) then that is an entirely separate issue to whatever costs Mr Nathan may owe to Broadspectrum as a result of his unsuccessful proceedings. The former has no relevance to the latter.

[7] Mr Upton is correct. If, as Mr Nathan alleges, Broadspectrum has failed to adhere to the earlier orders that should be addressed via a compliance application. It cannot be integrated with this given it is a stand-alone proceeding.

[8] I therefore choose to apply the normal tariff approach given that is what is sought and the absence of a valid argument as to why I should not do so. The filing fee is a given.

[9] Accordingly I order Mr Nathan pay Broadspectrum (New Zealand) Limited the sum of \$1,821.56 (one thousand, eight hundred twenty one dollars and fifty six cents) as a contribution toward the costs it incurred in pursuing its successful application.

M B Loftus
Member of the Employment Relations Authority

⁴ n.2 above