

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

[2016] NZERA Christchurch 172
5560316

BETWEEN STEVEN PHILLIP BAZLEY
AND BRENDON EPHIA
TUUTA, THE EXECUTORS
OF THE ESTATE OF MARY
BAZLEY
Applicant

AND COUNTRY HOSPITALITY
MANAGEMENT (NZ)
LIMITED
Respondent

Member of Authority: Christine Hickey

Representatives: Jannah Stringer, Counsel for the Applicant
Guy Herbert, Advocate for the Respondent

Costs submissions received: From the applicant on 30 August 2016
No submissions received from the respondent

Determination: 23 September 2016

COSTS DETERMINATION OF THE AUTHORITY

Within 28 days of this determination Country Hospitality Management (NZ) Limited must pay Steven Phillip Bazley and Brendon Ephia Tuuta as executors of the Estate of Mary Bazley \$3,500 towards their legal costs and reimburse the \$71.56 lodgement fee.

[1] On 2 August 2016 I issued a determination that Mrs Bazley had been unjustifiably dismissed and should be paid a total of \$9,971.86 by Country Hospitality Management (NZ) Limited.

[2] The parties were encouraged to agree on costs, which I indicated would be likely to be based on the daily tariff of \$3,500. The parties have not been able to agree on costs and Ms Stringer has applied for costs on behalf of Mrs Bazley's Estate. I received her submissions on 30 August 2016.

[3] The submissions were forwarded to Mr Herbert on the same day. Country Hospitality had 14 days to respond. On 21 September 2016, the Senior Authority Officer emailed Mr Herbert noting that more than 14 days had passed and Country Hospitality had not filed any submissions. She notified Mr Herbert that I would proceed to make my determination. There has been no correspondence from Country Hospitality about costs.

[4] The power of the Authority to award costs arises from clause 15 of Schedule 2 of the Employment Relations Act 2000. Costs are awarded 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. In exercising its discretion the Authority frequently judges costs against a notional daily rate, which is currently \$3,500. The successful party can expect a reasonable contribution to their legal costs to be made by the unsuccessful party.

[6] Mrs Bazley's Estate was entirely successful in its claims, although remedies were lower than it claimed.

[7] The investigation meeting took place over two half days. Therefore, the starting position is that Country Hospitality should reimburse Mrs Bazley's Estate \$3,500. That is the amount claimed in Ms Stringer's submissions. The fees rendered were in excess of \$3,500.

[8] I have considered Ms Stringer's submissions and the factors set out in *PBO Limited (formerly Rush Security Ltd) v Da Cruz*.¹ I consider that the costs charged

¹ [2005] ERNZ 808

were reasonable and that \$3,500 is an appropriate amount of contribution for Country Hospitality to make. There are no grounds for an uplift in the daily tariff. Country Hospitality should also reimburse the Estate for the lodgement fee.

Christine Hickey
Member of the Employment Relations Authority