

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2020] NZERA 144
3066352

BETWEEN LAVINIA McLEOD
 Applicant

AND C and S BROWN ENTERPRISES
 LIMITED
 Respondent

Member of Authority: Helen Doyle

Representatives: Anna Oberndorfer, advocate for the Applicant
 No appearance for the Respondent

Submissions Received: 11 March 2020
 No submissions from the Respondent

Date of Determination: 9 April 2020

COSTS DETERMINATION OF THE AUTHORITY

A I order that C and S Brown Enterprises Limited pay to Lavinia McLeod the sum of \$1,125 being costs and \$71.56 being reimbursement of the filing fee.

Substantive Determination

[1] The Authority found in favour of the applicant in its determination dated 24 February 2020 and ordered reimbursement of wage arrears, holiday pay and awarded a penalty for a breach of the Wages Protection Act 1983. The Authority reserved the issue of costs and set a timetable for an exchange of submissions. Submissions were received from the applicant but not from the respondent.

[2] The respondent did not participate in the Authority process and did not attend at the investigation meeting. I am satisfied the respondent was provided with a copy of the determination and the applicant's cost submissions but has failed to lodge submissions in response to those in accordance with the timetable notwithstanding a reminder from the Authority Officer to do so.

[3] The Authority will proceed to determine the issue of costs.

The Applicant's submission

[4] Ms Oberndorfer refers to both the power the Authority has to award costs under clause 15 of schedule 2 of the Employment Relations Act 2000 and the principles as they apply to the Authority in exercising its discretion as to costs in *PBO Limited (formerly Rush Security) v Da Cruz*.¹

[5] On behalf of the applicant she seeks an award of costs in the sum of \$2,500.

Analysis and Conclusion

[6] The investigation meeting took a little over one hour which included submissions.

[7] There was one witness called and the matters were reasonably straightforward. The Authority had not required any statements of evidence to be lodged.

[8] In the circumstance an appropriate award for costs is a quarter of the daily tariff² for the first full day of investigation in the Authority. That is the sum of \$1,125. I will also order reimbursement of the filing fee in the sum of \$71.56.

Order

[9] I order that C and S Brown Enterprises Limited pay to Lavinia McLeod the sum of \$1,125 being costs together with reimbursement of the filing fee of \$71.56.

¹ *PBO v Da Cruz* [2005] 1 ERNZ 808.

² Daily tariff for the first full day is \$4,500.

Helen Doyle
Member of the Employment Relations Authority