

**IN THE EMPLOYMENT COURT
WELLINGTON**

**[2010] NZEMPC 119
WRC 15/10**

IN THE MATTER OF a challenge to a determination of the
Employment Relations Authority

AND IN THE MATTER OF an application for costs

BETWEEN WELLINGTON FREE AMBULANCE
SERVICE INC
Plaintiff

AND ALANA ADAMS
Defendant

Hearing: By memoranda of submissions filed on 23 June, 24 August, 2 and 7
September 2010

Judgment: 10 September 2010

COSTS JUDGMENT OF CHIEF JUDGE GL COLGAN

[1] Should Alana Adams pay costs and disbursements to her former employer, Wellington Free Ambulance Service Inc and, if so, how much?

[2] The Employment Relations Authority directed Ms Adams's interim reinstatement in employment pending its investigation of her personal grievance claims that she had been disadvantaged unjustifiably in, and dismissed unjustifiably from, her employment as a medical despatcher. The employer was successful in its challenge and the Court overturned the Employment Relations Authority's order for interim reinstatement. I reserved costs, indicating that it would be appropriate for these to be raised after the conclusion of the substantive proceedings between these parties in the Authority. That has now occurred. Ms Adams was found to have been dismissed unjustifiably but there was no order made for her reinstatement in

employment. The time for challenging that determination of the Authority has passed and it will be for it to deal with questions of costs in that forum.

[3] The plaintiff's solicitors charged a substantially reduced fee in light of its charitable status and the plaintiff seeks a contribution of \$5,000 towards that reduced fee of \$7,000 (excluding GST). The plaintiff says that it was entirely successful before this Court in the sense that the Court set aside the Authority's order for interim reinstatement of the defendant. The plaintiff emphasises its charitable nature and that it is obliged to manage very carefully the funds that it receives and to expend these for the benefit of the Wellington community.

[4] Disbursements of \$225, being the court filing fee of \$200 and photocopying and printing charges of \$25, are also claimed.

[5] Opposing an order for costs, Ms Adams emphasises the shortness of the hearing before this Court (about 2½ hours) and her success in the Authority, at least so far as her unjustified dismissal and monetary compensation for this are concerned. Ms Adams points out that the plaintiff's claim to costs is for an award of \$5,000, which is more than the compensation she received from the Authority for unjustified dismissal.

[6] Ms Adams alleges that much of the hearing time in the Court was taken up with irrelevant and unnecessary submissions and argument from counsel for the plaintiff. Further, she says that the plaintiff's actual costs of representation were excessive and between 6 and 10 hours would have been a reasonable time for counsel to prepare for such a hearing.

[7] Ms Adams says that she is a young woman with no savings and has been out of work since her dismissal earlier this year except for some part time employment.

[8] Ms Adams submits that court costs should be left to lie where they fell or, alternatively, if an award is to be made, it should be very modest.

[9] I agree that the plaintiff's legal fees of \$7,000 were reasonable in all the circumstances and that an appropriate contribution towards it would be two-thirds of them, that is \$4,600. The disbursements claimed are reasonable which, when added to the contribution towards legal fees, means that the defendant must pay a contribution towards the plaintiff's costs and disbursements of \$4,825.

GL Colgan
Chief Judge

Judgment signed at 9 am on Friday 10 September 2010