

**IN THE EMPLOYMENT COURT
AUCKLAND**

**[2013] NZEmpC 5
ARC 90/09**

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

AND IN THE MATTER OF an application for costs

BETWEEN ZHANPING YANG
Plaintiff

AND L E BUILDERS LIMITED
Defendant

Hearing: By submissions filed by the plaintiff on 29 November 2012

Counsel: Mr R Hucker and Ms D Lang Siu, counsel for plaintiff
No appearance for the defendant

Judgment: 1 February 2013

COSTS JUDGMENT OF JUDGE CHRISTINA INGLIS

[1] In my substantive judgment of 29 October 2012,¹ I allowed the plaintiff's challenge to the Employment Relations Authority's determination,² finding that the plaintiff had been unjustifiably dismissed from his employment and awarding him lost wages, interest and compensation. The defendant did not participate in the hearing.

[2] Mr Hucker applied for costs on behalf of the plaintiff.

[3] The principles relating to costs awards in this Court are well established.³ The Court has a broad discretion in making costs awards, which must be exercised

¹ [2012] NZEmpC 185.

² AA 358/09, 9 October 2009.

³ See *Victoria University of Wellington v Alton-Lee* [2001] ERNZ 305; *Binnie v Pacific Health Ltd*

judicially and in accordance with recognised principles. The usual approach is that costs follow the event and generally amount to 66% of costs actually and reasonably incurred by a successful party (absent any factors that might otherwise warrant an increase or decrease from that starting point).

[4] The plaintiff is legally aided. The total costs incurred on behalf of the plaintiff in relation to his challenge, as funded by the Legal Services Agency, amount to \$10,592.45 (GST inclusive). I accept that such costs are reasonable in the circumstances, and having regard to the nature and scope of the proceedings. Counsel for the plaintiff submits that there is no reason to depart from the usual approach to costs in this Court, and seeks a costs award of \$6,990.

[5] I am satisfied, based on the material filed in relation to costs that an award of \$6,990 is appropriate. The defendant is accordingly ordered to pay the plaintiff \$6,990 by way of contribution to costs.

Christina Inglis
Judge

Judgment signed at 10.30am on 1 February 2013