

Reference No. HRRT 042/2011

UNDER THE PRIVACY ACT 1993

IN THE MATTER OF AN APPLICATION BY THE DEFENDANT FOR COSTS

BETWEEN RAZDAN RAFIQ

PLAINTIFF

AND SECRETARY FOR THE DEPARTMENT OF INTERNAL AFFAIRS

DEFENDANT

AT WELLINGTON

BEFORE:

Mr RPG Haines QC, Chairperson
Dr SJ Hickey, Member
Dr AD Trlin, Member

REPRESENTATION:

Mr R Rafiq in person (no appearance)
Mr S Cohen-Ronen for Defendant

DATE OF DECISION: 18 September 2013

DECISION OF TRIBUNAL ON COSTS APPLICATION BY DEFENDANT

Background

[1] These proceedings were heard at Wellington on 12 and 13 April 2012. In a decision given on 8 April 2013 Mr Rafiq's claim was dismissed, the Tribunal holding that all of the information provided by the New Zealand Police to the Secretary of Internal Affairs and which the Secretary had refused to disclose in response to Mr Rafiq's Principle 6

request had been properly and justifiably refused under the Privacy Act 1993, ss 27(1)(c).

The Secretary’s application for costs

[2] The Secretary was represented by an in-house litigation solicitor and the matter was not referred to the Crown Law Office or to any external counsel. Accordingly no external expenses have been incurred by the Secretary. Nevertheless substantial preparation was required, particularly given that a closed hearing was necessary. The Secretary seeks a reasonable contribution towards his costs in the sum of \$2,500 (GST inclusive).

[3] Mr Rafiq has filed no submissions on this application.

DISCUSSION

[4] The general principles applicable to the award of costs in proceedings before the Tribunal were recently reviewed in *Haupini v SRCC Holdings Ltd* [2013] NZHRRT 23 (28 May 2013). The Tribunal must determine what, in the circumstances, amounts to a reasonable contribution to the costs of the Secretary bearing in mind that \$3,250 per day is the average award.

[5] In the present case the contribution sought for the actual time spent by in-house counsel is \$2,500. This appears to be a modest sum and is less than the average award made by the Tribunal. In these circumstances we have decided to fix costs in the sum sought.

Formal orders as to costs

[6] Pursuant to s 85(2) of the Privacy Act 1993 costs in the sum of \$2,500 are awarded to the Secretary for the Department of Internal Affairs. This sum is intended to be all inclusive.

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Mr RPG Haines QC **Dr SJ Hickey** **Dr AD Trlin**
Chairperson **Member** **Member**