

**IN THE EMPLOYMENT COURT
WELLINGTON**

**WC 8A/07
WRC 23/06**

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

AND IN THE MATTER OF an application for costs

BETWEEN SERVICE AND FOOD WORKERS
UNION NGA RINGA TOTA
Plaintiff

AND OCS LIMITED
Defendant

Hearing: Written submissions received 21 March and 2 April 2007

Judgment: 7 May 2007

COSTS JUDGMENT OF JUDGE C M SHAW

[1] The plaintiff has applied for an award of costs having successfully challenged a determination of the Employment Relations Authority.

[2] The plaintiff's submissions in support of such an award were balanced and realistic and would normally justify an order for a modest contribution towards its costs. However, the subject-matter of the challenge related to a dispute about the interpretation of the collective agreement.

[3] The substantive judgment noted¹ that the parties required a ruling on the operation of the terms of the collective agreement not only to establish the rights and obligations in relation to a previous dispute but to assist in negotiating a new collective agreement.

¹ WC 8/07, at paragraph [38]

[4] The terms to be interpreted in this case were not entirely clear and warranted the Court's consideration.

[5] There are a number examples of similar cases where, because both parties ultimately benefited from having a definitive ruling, no order for costs was made.²

[6] This case is no different from those and I therefore order that costs of the proceeding will lie where they fall.

C M Shaw
JUDGE

Judgment signed at 10am on 7 May 2007

² For example: *NZ Merchant Service Guild v Interisland Line* [2003] 1 ERNZ 510; *Quality Service Enterprises Ltd v Huriwai* unreported, Shaw J, 23 November 2005, WC 16A/05