

**IN THE HIGH COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY**

CIV 2009-409-000488

BETWEEN BRUCE STUART-MENTEATH
 Plaintiff

AND THE REGISTRAR OF PRIVATE
 INVESTIGATORS AND SECURITY
 GUARDS
 First Defendant

AND PROVISION SECURITY LIMITED
 Second Defendant

Hearing: On Papers

Judgment: 30 September 2009

COSTS JUDGMENT OF FOGARTY J

[1] The plaintiff was successful in an application for judicial review. The second defendant abided. It became apparent this was because the application for judicial review had merit. Because the second defendant abided, Mr P J Gunn was appointed as amicus curiae. In the end he did not present any arguments defending the decision of the Registrar.

[2] Mr Stuart-Menteath seeks costs in order to recover his preparation and two types of disbursements. The first is an account from Buddle Findlay for \$634.22 assisting him preparing his statement of claim. The second is a filing fee.

[3] The first defendant opposes any order for costs. The Registrar relies on the principle that costs will only be ordered against it in exceptional circumstances.

[4] Costs are only rarely awarded against judicial officers. In this case I am satisfied that the Registrar is a quasi judicial officer. He is exercising a statutory power granted under the Private Investigators and Security Guards Act 1974. The fact that he is a public officer is the basis of allowing judicial review.

[5] In any event, costs would not be allowed for preparation by the plaintiff as a lay litigant. At best his costs would total \$1,034.22 being the Buddle Findlay account (see *Knight v Veterinary Council of New Zealand* HC WN CIV 2007-485-1300 31 July 2009, Clifford J) and the Ministry of Justice claim filing fee of \$400.

[6] It is an important principle of law that only in the rarest circumstances will a judicial officer have an award of costs made against him. See *Coroners Court v Newton* [2006] NZAR 312 (CA) at [144]. I am satisfied that this constitutional principle needs to be upheld. It is one of the underpinnings of ensuring that judgments are made without fear or favour. This constitutional principle I am afraid outweighs the personal expenditure of about \$1,000 on the part of Mr Stuart-Menteath.

[7] Accordingly, the application for costs is dismissed.

Solicitors:
Crown Law, Wellington, for Defendants