



SAT

State
Administrative
Tribunal

Western Australia

HUMAN RIGHTS

DECISIONS BULLETIN

for the period 1 June 2009 - 30 June 2009

This Bulletin contains summaries of all written reasons for decisions published by the Tribunal in the Human Rights stream for the period 1 June 2009 - 30 June 2009. The full text of decisions and reasons can be found on the Tribunal's website at www.sat.justice.wa.gov.au. If you would like the monthly bulletin emailed to you directly, please enter your email address and details at our subscription page.

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GUARDIANSHIP AND ADMINISTRATION ACT 1990 (WA)

GW [2009] WASAT 126

24 JUNE 2009

MS H LESLIE (SENIOR SESSIONAL MEMBER)

Guardianship - Administration - Costs

Following the revoking by the Tribunal of the represented person's enduring power of attorney and the appointment of the Public Trustee as her administrator, the represented person's son who was one of two joint attorneys under her EPA and who had been the applicant in the aforementioned application, applied for the payment of his legal costs out of the estate of the represented person. The original hearing was short and essentially uncontested notwithstanding significant conflict and acrimony between the represented person's two sons. The Tribunal took the view in all the circumstances that the applicant should pay his own costs.

BMD and JDN and KWD [2009] WASAT 132

30 JUNE 2009

MS J TOOHEY (SENIOR MEMBER)

Guardianship and administration - application for administration - Public Trustee appointed plenary administrator - Administrator directed to investigate whether application should be made to set aside a contract - Application for the legal costs of the applicants to be paid out of the estate of the represented person - Factors to be considered in determining costs applications - Whether the rule that parties bear their own costs should be set aside - Represented person ordered to pay a contribution to the applicants' legal costs

The son and daughter of an elderly man applied for their legal costs to be paid from his estate following their successful application to have an administrator appointed for him.

The proceedings before the Tribunal were the subject of conflict and involved the serious issue of whether a contract by which the man had disposed of a major asset should be set aside.

The Tribunal found that the son and daughter had acted in their father's best interests in bringing the application for administration, but did not accept that all of their legal costs should be paid from his estate. It ordered costs of \$5,000 be paid from his estate.