

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI
TĀMAKI MAKĀURAU ROHE**

[2020] NZERA 2
3060193

BETWEEN	KEITH ADAIR Applicant
AND	AIR NEW ZEALAND LIMITED First Respondent

Member of Authority:	Vicki Campbell
Representatives:	Tim Oldfield for Applicant Kevin Thompson for Respondent
Submissions received:	28 December 2019 from Applicant 20 December 2019 from Respondent
Determination:	8 January 2020

COSTS DETERMINATION OF THE AUTHORITY

- A. Mr Adair is ordered to pay to Air NZ the sum of \$1,500 as a contribution toward costs within 28 days of the date of this determination.**

[1] In a determination dated 4 December 2019 I declined Mr Adair's application that he be paid sick leave in respect of an injury he suffered while he was on paid retirement leave.¹

¹ *Adair v Air New Zealand Limited* [2019] NZERA 691.

[2] I reserved costs. I indicated I was of a mind to let costs lie where they fall and invited the parties to resolve the issue between them. The parties have been unable to resolve the matter and Air New Zealand (Air NZ) has lodged a costs memorandum seeking a determination of the issue of costs.

[3] The discretion to award costs, while broad, is to be exercised in a principled way. The primary principle is that costs follow the event. The Authority has the power to order any party to pay to any other party such costs and expenses as the Authority thinks reasonable.² The principles applying to costs are well settled and do not require repeating.³

[4] An assessment of costs in the Authority will normally start with the notional daily tariff which is \$4,500 for the first day of an investigation meeting and \$3,500 for each subsequent day.⁴

[5] The substantive matter was dealt with on the papers before the Authority which avoided the necessity for the parties to prepare for and attend an investigation meeting. After carefully considering the submissions of the parties I have concluded that in this case a costs award is appropriate.

[6] Taking into account that the matter was dealt with efficiently and on the papers before the Authority without the need for formal witness statements or appearances at an investigation meeting an appropriate contribution to Air NZ's costs by Mr Adair is \$1,500.

[7] Accordingly Mr Adair is ordered to pay to Air NZ the sum of \$1,500 as a contribution toward its costs within 28 days of the date of this determination.

Vicki Campbell
Member of the Employment Relations Authority

² Employment Relations Act 2000, Schedule 2, clause 15.

³ *PBO Ltd v Da Cruz* [2005] 1 ERNZ 808, 819-820 and *Fagotti v Acme & Co Limited* [2015] NZEmpC 135 at [106] – [108].

⁴ Practice Note 2, Costs in the Employment Relations Authority.