

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 8/10
5139910

BETWEEN TIANHAN CHENG
 Applicant

AND WHITE BAI
 Respondent

Member of Authority: R A Monaghan

Representatives: M Lee, counsel for applicant
 No appearance for respondent

Memoranda received: 15 December 2009 from applicant

Determination: 14 January 2010

COSTS DETERMINATION OF THE AUTHORITY

[1] In a determination dated 18 November 2009 I found that Tianhan Cheng was dismissed unjustifiably. Costs were reserved and counsel has filed a memorandum on the matter.

[2] Counsel cited a sum expended on legal aid in the amount of \$3,180 and sought an order for costs in favour of the applicant.

[3] As the successful party the applicant is entitled to a contribution to his costs. In setting an appropriate sum I take into account the principles set out in **PBO Limited (formerly Rush Security Limited) v da Cruz**.¹ In doing so I find there is no reason to depart from the notional daily rate applied in the Authority in appropriate circumstances. Accordingly, since the investigation meeting was less than half a day, the respondent is ordered to contribute to the applicant's costs in the sum of \$1,500.

¹ [2005] ERNZ 808.

[4] Mr Bai is also ordered to reimburse Mr Cheng for the filing fee of \$70.

[5] Counsel made a further request that the Authority issue an amended determination correcting the respondent's name so that it records his legal name rather than his English name.

[6] Submissions on costs are not an appropriate vehicle for such an application. If counsel seeks such an amendment he should file a separate application, citing the grounds and with evidence in support of the change sought.

R A Monaghan

Member of the Employment Relations Authority