

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Maxwell Henry Davenport (Applicant)
AND Air New Zealand Limited (Respondent)
REPRESENTATIVES Ross France, Counsel for Applicant
Kevin Thompson, Counsel for Respondent
MEMBER OF AUTHORITY Marija Urlich
MEMORANDUM RECEIVED 10 April 2006
DATE OF DETERMINATION 31 May 2006

DETERMINATION OF THE AUTHORITY AS TO COSTS

[1] In a determination dated 5 October 2005 I found Mr Davenport's dismissal was justified. Costs were reserved and the parties were invited to attempt to resolve this issue themselves. In his memorandum Mr Thompson advises that the applicant has not responded to the respondent's request to resolve this issue and seeks the Authority determine this issue. The applicant has not filed a costs memorandum.

[2] The respondent seeks a contribution of \$2500.00 to actual costs incurred of a little over \$8000.00. Mr Thompson submits this represents a fair, but not generous contribution towards actual costs reasonably incurred.

[3] The investigation meeting ran for a day. The smooth running of the meeting was aided by the parties' preparation of full witness statements and supporting documentation. The issues before the Authority included the section 103A test for justification the consideration of which was assisted by written submissions filed subsequent to the investigation meeting.

[4] The respondent has been the successful party and it is reasonable, in these circumstances that an award of costs is made in its favour. Applying the principals appropriate to a consideration of costs in the Authority¹, I set that award at \$2500 and so order.

Marija Urlich
Member of Employment Relations Authority

¹ *Da Cruz v PBO Ltd unreported, AC2A/05, 9 December 2005, Employment Court, Auckland, Colgan, Travis, Shaw JJ*