

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 16/10
5164780

BETWEEN STEIG FERGUSSON
 First Applicant

AND TROY SUTCLIFFE
 Second Applicant

AND VEHICLE MAINTENANCE
 LIMITED
 Respondent

Member of Authority: Vicki Campbell

Representatives: Simon Scott for Applicants
 Mark Flyger for Respondent

Submissions Received: 16 November 2009 from Applicants
 10 December 2009 from Respondent

Determination: 19 January 2010

COSTS DETERMINATION OF THE AUTHORITY

[1] Mr Fergusson and Mr Sutcliffe were successful in their personal grievance claim that they were unjustifiably dismissed. In a determination dated 11 November 2009 I concluded that Vehicle Maintenance Limited's actions in dismissing the Applicants as not what a fair and reasonable employer would have done in all the circumstances.

[2] In my determination I reserved the question of costs and invited the parties to resolve the matter between them. They have been unable to do so and I am now in receipt of memorandum from both parties.

[3] The principles appropriate to the exercise of the Authority's discretion in relation to costs are set out in *PBO Ltd (formerly Rush Security Ltd) v Da Cruz*¹. These principles include a notional daily tariff in the calculation of costs. Costs will generally follow the event and awards will be modest. The investigation into the Applicant's claim took less than one day and the matter was not overly complex.

[4] Mr Fergusson and Mr Sutcliffe seek a contribution to their costs of \$3,000. The actual costs incurred were \$6,000 excluding GST plus \$140.00 in disbursements. I am satisfied the costs incurred are reasonable. I consider it appropriate to award costs according to the Authority's daily tariff. I regard that tariff as ranging between \$1,500 to \$3,000 per day.

[5] Having regard to the nature and length of the investigation meeting and in the principled exercise of my discretion **I order Vehicle Maintenance Limited to pay to Mr Fergusson and Mr Sutcliffe the total amount of \$1,500 as costs.**

Vicki Campbell
Member of Employment Relations Authority

¹ [2005] 1 ERNZ 808.