

- Jennian Services actual costs incurred in relation to this matter are minimal; and
- Mr Hamlin's claim was sincerely held and not vexatious or frivolous.

Determination

[4] *PBO Ltd v Da Cruz*¹ sets out the appropriate principles to be applied by the Authority in exercising its costs discretion.

[5] It is usual that costs follow the event and I find that an award of costs is warranted in this matter. Grounds for indemnity costs do not exist. I accept Mr Nutsford's submission that Mr Hamlin's claim was sincerely held and not vexatious or frivolous.

[6] The claim for executive time in relation to Mr Stephen Murray is declined. There is nothing before the Authority to indicate the costs associated with Mr Murray's attendance at the investigation meeting and preparation time could not be absorbed by the respondent.

[7] The detailed invoices provided by the respondent in support of its costs claim show actual costs incurred in relation to the investigation meeting with the Authority total \$2555.00. I am satisfied that these costs were reasonably incurred.

[8] In the circumstances, accepting \$2000 - \$3000 as a usual notional daily rate in the Authority and given the investigation meeting took about ½ a full hearing day; I set the costs award at \$750.

[9] **Mr Wayne Hamlin is ordered to pay \$750.00 to Jennian Services Limited in costs, pursuant to clause 15 of Schedule 2 of the Employment Relations Act 2000.**

Marija Urlich

Member of the Employment Relations Authority

¹ [2005] 1 ERNZ 808