

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

AA 348A/09
5166572

BETWEEN MARK POULTER
 Applicant

AND ANTIPODEAN GROWERS
 LIMITED
 Respondent

Member of Authority: R A Monaghan

Representatives: M Poulter in person
 H Wendelborn, counsel for Respondent

Memoranda received: 9 November 2009 from applicant
 27 October 2009 from respondent

Determination: 27 November 2009

COSTS DETERMINATION OF THE AUTHORITY

[1] In a determination in the above dated 29 September 2009 I found there was no employment relationship between Mark Poulter and Antipodean Growers Limited. Costs were reserved and the parties have filed memoranda on the matter.

[2] The respondent seeks an order for costs based on a reasonable contribution to costs actually and reasonably incurred. Ms Wendelborn cited time and attendance costs of \$4,600 and noted that the investigation meeting took half a day.

[3] Some of Mr Poulter's submissions addressed areas of evidence that will become matters for the Employment Court on the challenge to the determination. However he also says that his personal belongings are under the control of the respondent's lawyers and he has no savings.

[4] The respondent was the successful party and is entitled to seek a contribution to its costs. The principles relevant to costs in the Authority are set out in **PBO Ltd (formerly Rush Security) v Da Cruz**¹. They refer among other things to a daily rate being applied in the Authority, noting also that the rate is not set automatically and its application depends on the case concerned.

[5] Here I start with a daily rate. For a half day the amount is in the range of \$1,000 - \$1,500. I also take into account the information Mr Poulter supplied about his circumstances and some evidence I heard which bears on his assets and income.

[6] On the basis of that information there will be no order for costs.

R A Monaghan

Member of the Employment Relations Authority

¹ [2005] 1 ERNZ 808