



(2) *The Authority may apportion any such costs and expenses between the parties or any of them as it thinks fit, and may at any time vary or alter any such order in such manner as it thinks reasonable.*

[5] Costs are at the discretion of the Authority, as observed by the current Chief Judge Colgan in *NZ Automobile Association Inc v McKay*<sup>1</sup> .

[6] Further, the then Chief Judge Goddard noted in *Registrar of Trade Unions v NZALPA*<sup>2</sup> that costs normally follow the event and are independent of any appeal.

[7] However I have also taken into consideration the comments made by Colgan CJ in *NZ Automobile Association Inc v McKay*<sup>3</sup> :

*I am not suggesting that there should be any hard and fast rule that it is inappropriate to order costs upon an interlocutory application that it results in the survival of the substantive proceeding. Rather, in cases in which the merits of a grievance are brought to a low level, speedy and informal Tribunal have not been entertained, it may be more just to determine these as part of the overall settlement of the grievance.*

[8] As the determination in this matter was on a preliminary issue, I have reached the conclusion that, whilst open to the Authority to make a decision on costs in relation to the determining of that matter in the Authority, it is appropriate to reserve the issue of costs pending the outcome of the final resolution in the Employment Court.

**Eleanor Robinson**  
**Member of the Employment Relations Authority**

---

<sup>1</sup> [1996] 2 ERNZ 622

<sup>2</sup> (1989) ERNZ Sel Cas 304

<sup>3</sup>