



[6] The costs sought include \$1,503.09 paid for legal services in late 2007 when the Labour Department was investigating the holiday pay claim. The Authority's hearing did not take place until 2009. The costs claim also includes other matters dealt with in 2007 and 2008 including preparation for and attendance at mediation. The amount sought for preparation and attendance at the Investigation is \$1,250.

[7] The principles applicable to an award of costs in the Authority have been set out in *PBO Limited (formerly Rush Security Ltd) v Da Cruz* [2005] 1 ERNZ 808. The Full Court set out a number of principles including that costs generally follow the event, are frequently judged against a notional daily rate and that awards will be modest. An award of costs is discretionary but the discretion is to be exercised accordance with principle and not arbitrarily. Costs are not to be punitive and will generally be modest. The conduct of the parties can also be taken into account.

[8] Claims for expenses incurred while dealing with the Labour Department's investigations cannot be reimbursed in the Authority. While under some circumstances claims for executive time may be payable given that the applicant was successful in part of its claim and the respondent successful in defending part of the claim, costs should lie where they fall with regard to this matter.

Dzintra King

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