



[4] Both parties attended mediation to try and save costs.

[5] The notional daily tariff takes into account preparation and the investigation meeting. The investigation meeting lasted a full day. Written submissions were required and were filed after the investigation meeting.

[6] There was preparation necessary and both parties complied with the timetable arranged in a telephone conference for case management before the investigation meeting.

[7] Before the Authority's investigation the applicant had an opportunity to settle on a sum offered by the respondent. This offer was made in a reasonable time before the investigation meeting and any further costs being incurred. The offer was made as a without prejudice offer to settle save for costs. The result of the applicant declining the offer was that costs were incurred after the offer was made in continuing with litigation. It was a sum that was within a range that if the applicant had settled would have meant some savings and avoided the time and expense of the litigation, especially since the respondent successfully defended all the claims. The applicant would have been better off settling to save costs. This is a factor that means that costs could have been reasonably saved by the applicant instead of litigating the problem. This means the offer must be a factor in assessing costs, I hold.

[8] There was nothing extraordinary and or exceptional about the substantive issues between the parties, however there were some unusual features arising from the evidence, but those were dealt with in the time available. Otherwise the matter involved was predictable.

[9] This is a matter in which the costs incurred by the respondent should be reimbursed at a slightly higher rate than the usual tariff because the applicant put the respondent to what amounted in the end to unnecessary costs when the matter could have been settled without an investigation.

**Orders of the Authority**

[10] Andrew Standish is to pay the Civil Aviation Authority \$4,500 as a contribution towards its costs.

P R Stapp  
Member of the Employment Relations Authority