

[4] The advocate provided some further advice said to be valued on a time-basis at \$350. Although he was not invoiced for that additional amount, Mr Thomas wants that amount included in any calculation of his costs. I decline to do so. An award of costs is assessed in relation to costs actually incurred.

[5] After considering Mr Thomas' submission on costs and applying the principles outlined in *PBO Ltd v Da Cruz* [2005] 1 ERNZ 808 I consider \$600 should be awarded as a reasonable contribution to costs incurred by him.

[6] The invoice for \$1200 included the advocate's time assisting Mr Thomas in mediation. Costs incurred in relation to mediation are not recoverable in the Authority. Although the proportion of the invoice relating to mediation is not specified I have deducted one third of the total to allow for it, leaving a total of \$800 actual costs. Three-quarters of that amount totals \$600 which I consider is a modest and reasonable contribution to the costs of professional assistance incurred by Mr Thomas in successfully bringing his grievance.

[7] Mr Walkinshaw is ordered to pay to Mr Thomas the sum of \$600 as a reasonable contribution to his costs. This sum is in addition to the \$70 reimbursement of the Authority's application fee that Mr Walkinshaw was ordered to pay under determination 310A/08.

Robin Arthur
Member of the Employment Relations Authority