IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND

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[2015] NZERA Auckland 100
5452771

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BETWEEN		DANDI WANG Applicant
AND		NEW ZEALAND CHINESE TELEVISION LIMITED Respondent

Member of Authority:	Eleanor Robinson
Representatives:	Mike Harrison, Advocate for Applicant Stephen Wong, Representative for Respondent
Submissions received:	2 March 2015 from Applicant 16 March 2015 from Respondent
Determination:	30 March 2015

COSTS DETERMINATION OF THE AUTHORITY

[1]   By determination [2015] NZERA Auckland 32 the Authority determined that the Applicant, Ms Dandi Wang, had been unjustifiably dismissed by the Respondent, New Zealand Chinese Television Limited (NZCTV).

[2]   In that determination costs were reserved in the hope that the parties would be able to settle this issue between them. Unfortunately they have been unable to do so, and Mr Harrison, on behalf of Ms Wang, has filed submissions in respect of costs.

[3]   This matter involved one day of an Investigation Meeting. Mr Harrison, citing actual costs of $4,585.75 is seeking a contributory award of $3,500.00 towards the actual costs.

[4]   Mr Wong on behalf of NZCTV submits that no costs should be awarded on the basis that Ms Wang's claims were not realistic and that she had been provided with ill-considered advice by Mr Harrison.

Costs

[5]   This matter involved a one day investigation meeting.

Principles

[6]   The power of the Authority to award costs arises from Section 15 of Schedule 2 of the Employment Relations Act 2000 (the Act) which states:

> **15 Power to award costs**
>
> *(1) The Authority may order any party to a matter to pay to any other party such costs and expenses (including expenses of witnesses) as the Authority thinks reasonable.*
>
> *(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.*

[7]   Costs are at the discretion of the Authority, as observed by Chief Judge Colgan in *NZ Automobile Association Inc v McKay*[1].

[8]   The principles and the approach adopted by the Authority on which an award of costs is made are well settled and outlined in *PBO Limited (formerly Rush Security Ltd) v Da Cruz*[2].

[9]   It is a principle set out in *PBO Limited (formerly Rush Security Ltd) v Da Cruz*[3] that costs are modest. Costs are also reasonable as observed by the Court of Appeal in *Victoria University of Wellington v Alton-Lee*[4] at para [48] "*As to quantification, the principle is one of reasonable contribution to costs actually and reasonably incurred.*"

Determination

[10]   A tariff based approach is that usually adopted by the Authority, which has the discretion to raise or lower the tariff, depending upon the circumstances. For a 1 day investigation meeting this would normally equate to $3,500.00.

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[1] [1996] 2 ERNZ 622
[2] [2005] 1 ERNZ 808
[3] [2005] 1 ERNZ 808
[4] [2001] ERNZ 305

[11]	The normal rule is that costs follow the event.	Having considered all of the circumstances, I can see no justification for not making the costs award to Ms Wang as the successful party in the proceedings.

[12]	I order NZCTV to contribute $3,500.00 towards Ms Wang's actual costs, pursuant to clause 15 of Schedule 2 of the Employment Relations Act 2000.

Eleanor Robinson
Member of the Employment Relations Authority