

- The Authority investigation encompassed two days together with the provision of written closing submissions;
- Additional costs were incurred in filing an amended statement of problem, attending an Authority teleconference, preparing argument in opposition to the respondent's challenge to the production of a recording;
- The costs incurred in relation to the transcript were unnecessary because the challenge was withdrawn at a late stage.

[3] Mr Tremewan submits \$2500 would be a reasonable contribution to the respondent's costs given the following:

- The applicant was only partially successful in his claim and, significantly, not successful in the major claim;
- It is unclear what proportion the contribution to costs sought is to actual costs incurred; and
- Costs incurred in relation to recordings and witness summons relate to the unsuccessful portion of the applicant's claim and should not be considered in any costs award.

Determination

[4] *PBO Ltd v Da Cruz*¹ sets out the appropriate principles to be applied by the Authority in exercising its costs discretion. It is usual that costs follow the event. I find that an award of costs is warranted in this matter.

[5] In the circumstances of these proceedings, in particular the nature of the matters before the Authority, the importance of those matters to the parties and the hearing time involved (two days), and accepting \$3000² as a usual notional daily rate in the Authority, I set the costs award at \$5000.00. Disbursements are awarded as claimed.

¹ [2005] 1 ERNZ 808

² *Chief Executive, Department of Corrections v Tawhiwhirangi (No 2)* [2008] ERNZ 73

[6] ANZ Sky Tours Limited is ordered to pay \$5000.0 in costs plus disbursements of \$199.38 to Bin (Bobby) Xu: pursuant to clause 15 of Schedule 2 of the Employment Relations Act 2000.

Marija Urlich

Member of the Employment Relations Authority