

The response

[4] The respondent (Mr Tan) has not filed costs submissions.

Discussion

[5] The law on costs fixing in the Employment Relations Authority is well settled. The principles are set out in the decision of the Full Bench of the Employment Court in *PBO Ltd v. Da Cruz* [2005] 1 ERNZ 808.

[6] The principles enunciated in that decision include:

- Costs normally follow the event;
- Costs in the Authority are generally modest, recognising the informal non-adversarial process;
- The Authority can and should take account of any *Calderbank* offers;
- The Authority has a discretion but that discretion must be exercised in accordance with legal principles;
- The Authority habitually uses a daily tariff as a starting point in the costs fixing exercise.

Determination

[7] This was a matter that was effectively dealt with in one hearing day but that hearing day was in two parts with each party attending only one part. It follows that in terms of the involvement of counsel for the successful applicants, it is only fair and just that the starting point is a half day rather than the full day because counsel was only involved for a half day. The current daily tariff is \$3,500 so the starting point in the present case is \$1,750 for a half day.

[8] The Authority is satisfied that in the particular circumstances of this case an additional allowance of \$250 ought to be applied taking the total costs award to \$2,000.

[9] In addition, the disbursements are to be separately paid for. They total \$276.50.

[10] Accordingly, Mr Tan is directed to pay to the applicants care of their solicitors, Michael Kan Law Ltd, the total sum of \$2,276.50 as a contribution to the costs of the applicants in successfully bringing their claim in the Authority.

James Crichton
Member of the Employment Relations Authority