

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN New Zealand Air Line Pilots Association Inc (Applicant)

AND Air New Zealand Limited (Respondent)

REPRESENTATIVES Richard McCabe, Advocate for Applicant
Kevin Thompson, Counsel for Respondent

MEMBER OF AUTHORITY R A Monaghan

MEMORANDA RECEIVED 11 and 26 October 2006

DATE OF DETERMINATION 7 November 2006

DETERMINATION OF THE AUTHORITY ON COSTS

[1] In a determination of the above, dated 19 September 2006, ALPA sought certain declarations and compliance orders in respect of the collective employment agreement to which it and Air New Zealand are parties.

[2] I declined the orders sought and reserved costs. The parties have since filed memoranda on the matter.

[3] Counsel for Air New Zealand seeks a contribution to costs in the sum of \$4,000, citing in support the principles in **PBO Limited (formerly Rush Security Limited) v Da Cruz** [2005] 1 ERNZ 808.

[4] ALPA accepts costs generally follow the event, and says a reasonable contribution would be \$1,500.

[5] The meeting lasted a little under a full day. An appropriate starting point for a contribution to costs is therefore \$2,500. ALPA did, however, file copious amounts of evidence that was either not relevant or not entitled to any weight. Only some of it was provided following my request for additional material, and I made the point at the time that the request had a limited purpose and the parties should not go to undue effort to obtain it. Even then, I was provided with a great deal more than I asked for. Air New Zealand was forced to address all of the material and in that sense incurred costs that should not have been necessary.

[6] Although counsel raised other matters in support of a modest departure from the Authority's 'tariff', the above is the one to which I give the most weight. I do not, for example, attach weight to the offer to allow costs to lie where they fell - made without prejudice save as to costs - if ALPA withdrew its claim. Although I determined the employment relationship problem on the basis of the decision in **Fransham**, the approach in the collective employment agreement as well as Air New Zealand's ongoing practice mean it is not surprising that the broad issue of who has the right to fly

international cargo operations continues to recur. In turn it is not surprising that ALPA did not withdraw its application.

[7] However for the reason indicated, I consider a modest increase in ALPA's contribution to Air New Zealand's costs is warranted. Accordingly it is ordered to contribute to those costs in the sum of \$3,000.

R A Monaghan
Member of Employment Relations Authority