

BETWEEN NEW ZEALAND AIRLINE PILOTS
 ASSOCIATION INCORPORATED
 Applicant

AND AIR NEW ZEALAND LIMITED
 Respondent

Member of Authority: Leon Robinson

Representatives: Richard McCabe for Applicant
 Kevin Thompson for Respondent

Determination: 20 March 2007

DETERMINATION OF THE AUTHORITY AS TO COSTS

[1] By a Determination dated 7 March 2007, the Authority determined there was no case for declarations sought by the applicant New Zealand Airline Pilots Association Incorporated ("NZALPA") or for further investigation relating to a wage arrears claim. The respondent Air New Zealand Limited ("Air New Zealand") now asks the Authority to order that NZALPA contribute to its costs. Its counsel has provided a memorandum to the Authority in support of its claim for costs.

[2] Mr McCabe for NZALPA writes to the Authority by facsimile advice today. He advises:-

I have been instructed to file a De Novo Challenge in the Employment Court regarding the above matter.

Accordingly, NZALPA will not be filing a Memorandum as to Costs insofar as that issue will be addressed by the Employment Court.

[3] I am not aware of any stay in this matter and the Authority is not precluded from determining it. It is always preferable to have input from both parties but NZALPA elects not to be heard. That is its prerogative.

[4] The Authority held an investigation meeting which proceeded over two days. Air New Zealand's counsel advises Air New Zealand's actual legal costs in defending the application was a

little over \$13,000.00. Air New Zealand wrote to NZALPA by email of 14 March 2007 proposing \$4,750.00 as acceptable to it as costs payable. Counsel advises there was no response.

[5] I exercise my discretion by determining what is a fair and reasonable contribution as between the parties. The approach is a principled one which has regard only for relevant matters and no regard for irrelevant ones. Regrettably, there is no input from NZALPA.

[6] I accept responsible counsel's advice of Air New Zealand's actual costs. Air New Zealand is to be regarded as the successful party and accordingly, costs shall follow that event. The amount that is sought is consistent with awards of costs in the Authority which are typically modest. It is also commendably sensible and entirely appropriate. Exercising my discretion on a principled basis, I conclude a contribution of \$4,750.00 as sought is just. **I order New Zealand Airline Pilots Association Incorporated to pay to Air New Zealand Limited the sum of \$4,750.00 as a contribution to costs.**

Leon Robinson
Member of Employment Relations Authority