

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND OFFICE**

**AA 199A/09  
5157852**

BETWEEN APN PRINT NEW ZEALAND  
LIMITED

Applicant

AND NEW ZEALAND  
AMALGAMATED ENGINEERING  
PRINTING & MANUFACTURING  
UNION INCORPORATED

Respondent

Member of Authority: Leon Robinson

Submissions Received: 7 July 2009  
10 August 2009

Determination: 19 August 2009

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**DETERMINATION OF THE AUTHORITY AS TO COSTS**

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[1] By a Determination dated 22 June 2009, the Authority expressed its opinion in respect of a dispute between the parties. APN Print New Zealand Limited's ("APN") now makes application for costs.

[2] Through its counsel, APN seeks a contribution of \$10,000 plus disbursements of \$474, to its actual costs of \$23,843.00.

[3] The respondent union ("the Union") says there was a genuine dispute between the parties about the interpretation and operation of the collective agreement and in those circumstances, it is appropriate that costs lie where they fall. Alternatively, it argues that on a tariff approach an award of \$1,000.00 would be reasonable.

[4] With the parties' cooperation, this dispute was brought on for meeting on an urgent basis. Both parties briefed evidence and made helpful submissions which assisted the Authority to issue a timely determination. The investigation meeting proceeded over one half day.

[5] This is an equity and good conscience jurisdiction and costs awards in the Authority are generally modest consistent with the Authority's approach to its investigations. Each case is to be treated on its own facts. The exercise of my discretion calls for a determination of what is a fair and reasonable contribution as between the parties.

[6] The applicant resisted the interpretation of the prevailing collective employment agreement contended by the Union. I declined to interfere with APN's management prerogative and disagreed with the Union that effective notice had not been given. Those being my substantive findings, I conclude APN was successful in this proceeding. Costs will follow that event and APN is entitled to the exercise of my discretion to award costs in its favour.

[7] I was in a position to efficiently dispose of this problem because of the cooperation between the parties and because of the quality preparation of the parties' cases, and in particular the applicant's. I do not take for granted the value quality assistance by professional counsel can play in the Authority's investigations.

[8] Because I consider this was not a complex matter and involved contractual interpretation, I deal with the matter of costs on a tariff basis. I consider that counsels' assistance reduced a meeting that would have ordinarily taken one day, to one half day. I therefore award costs on the basis of a full day's investigation meeting. I increase the daily tariff to take account of the urgency under which the parties prepared their respective cases. Starting at \$3,000.00 I increase that rate to \$5,000.00.

[9] I exercise my discretion to award costs on the principled basis I have articulated above. Having done so, **I order New Zealand Amalgamated Engineering Printing & Manufacturing Union Incorporated to pay to APN Print New Zealand Limited the sum of \$5,000.00 as costs.**

