

- The discretion is to be exercised in accordance with principle;
- The statutory jurisdiction to award costs is consistent with the equity and good conscience jurisdiction of the Authority;
- Equity and good conscience is to be considered on a case by case basis;
- Costs are not to be used as a punishment or as an expression of disapproval of an unsuccessful party's conduct although conduct which increases costs unnecessarily can be taken into account in inflating or reducing an award;
- It is open to the Authority to consider whether all or any of the parties costs were unnecessary or unreasonable;
- That costs generally follow the event;
- That without prejudice offers can be taken into account;
- That awards will be modest;
- That frequently costs are judged against a notional daily rate;
- The nature of the case can also influence costs and this has resulted in the Authority ordering that costs lie where they fall in certain circumstances.

[4] MS Bennett incurred costs of \$3,500 plus disbursements of \$70 being the filing fee and \$20 for photocopying charges. I have noted Ms Toohey's submissions that the respondent was put to additional costs itself, in preparing a bundle of documents, which would normally be provided by the applicant, as a result of inordinate and unexplained delays on the part of the applicant.

[5] The matter was not complex and the hearing lasted about half a day. Taking into account the preparation required and the length of the hearing, New Zealand Mushrooms Limited is to contribute \$750 plus \$90.00 disbursements towards Ms Bennett's costs.

[6] An order is made accordingly.

Vicki Campbell
Member of Employment Relations Authority