

Under the Employment Relations Act 2000

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND OFFICE**

BETWEEN Ewen Berger (First Applicant)
AND Keith Marshall (Second Applicant)

AND Air New Zealand Limited (Respondent)

REPRESENTATIVES Paul Wicks, Counsel for Applicant
Kevin Thompson, Counsel for Respondent

MEMBER OF AUTHORITY R A Monaghan

MEMORANDA RECEIVED 22 August and 8 September 2005

DATE OF DETERMINATION 13 September 2005

DETERMINATION OF THE AUTHORITY ON COSTS

[1] In a determination of the substantive matter in the above, dated 14 February 2005, I found Messrs Berger and Marshall were justifiably dismissed and did not have personal grievances. Costs were reserved.

[2] Counsel for Air New Zealand seeks a contribution to costs in the sum of \$9,000. This is a little over 1/3 of the costs actually incurred. Counsel suggests further that, bearing in mind that two separate personal grievances were being dealt with during the investigation, the contribution be split and an award of \$4,500 be made against each of Messrs Berger and Marshall in favour of Air New Zealand.

[3] Counsel for Messrs Berger and Marshall submitted that a contribution of \$3,000 each would be suitable. This is about 1/4 of the costs actually incurred.

[4] The approach of both counsel to the matter meant that what could have been a lengthy (and expensive) investigation was conducted quickly and efficiently, and in considerably less time than had been allocated to it. There was, nevertheless, a great deal of material to consider and prepare, and the suggested contribution by counsel for Air New Zealand was reasonable.

[5] Messrs Berger and Marshall are therefore ordered to contribute to Air New Zealand's costs in the sum of \$4,500 each.

R A Monaghan
Member, Employment Relations Authority