



[4] Mr Bale on behalf of Axo objected to another investigation meeting and more time being provided to Mr Cameron.

### **Determination**

[5] The failure of Messrs Coyle and Cameron to get into Wellington was beyond their control because of the weather. That was good reason to delay the investigation meeting and they participated by telephone later in the day.

[6] During the telephone conference Mr Coyle acknowledged Mr Cameron owed a balance of \$75 for a portion of the auditor's costs paid by the company. He acknowledged this would be paid.

[7] It is accepted that there was an agreement reached in the earlier investigation between the parties for an audit and various claims and counter claims were withdrawn. This was recorded and signed and referred to by the Authority in a determination issued on 20 March 2009.

[8] Further the Authority reserved leave in that determination for any recovery action and enforcement action in respect of the matters subject to the independent audit.

[9] The audit was undertaken and an audit report provided. The sum owing is 3,364.27 pounds. Any enforcement must relate to what the auditor was asked to do and whether or not it was done. It is appropriate that I hear what any defence on that will be, including any evidence from Mr Cameron on oath, and any relevant evidence from the auditor if it is necessary. Messrs Coyle and Cameron will need to attend to any witness summons if it is necessary. Mr Bale's position on relevance in respect of any reply and response and witnesses is reserved and can be raised prior to or at the re-scheduled investigation meeting.

[10] I have decided to permit Messrs Coyle and Cameron to respond and reply with a defence to Axo's claims for the enforcement of the audited sum because they could not attend the investigation meeting through no fault of their own. A timetable has

been arranged for that to take place before the investigation meeting now scheduled for 18 February 2010. The timetable has been recorded and will be conveyed to the parties separately from this determination.

**Orders of the Authority**

[11] Mr Cameron is to pay Axo Shredders \$75.

[12] Notice of an investigation meeting will be given for 18 February 2010.

[13] Axo's right to raise any arguments on relevance and jurisdiction have been reserved awaiting Mr Coyle's and Mr Cameron's out of a defence and reply/response and statements.

[14] Costs are reserved.

P R Stapp  
Member of the Employment Relations Authority