

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**[2017] NZERA Auckland 270
3000097**

BETWEEN

A LABOUR INSPECTOR,
MINISTRY OF BUSINESS,
INNOVATION AND
EMPLOYMENT
Applicant

AND

2 CHEAP CARS LIMITED
Respondent

Member of Authority: Eleanor Robinson
Representatives: Annabelle Skadiang, Counsel for Applicant
Duncan Coats, Counsel for Respondent
Investigation Meeting: On the papers
Submissions received: 16 August 2017 Joint submission from Counsel
Date of Determination: 07 September 2017

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] The Applicant, a Labour Inspector, seeks arrears owed to 12 employees arising from employment law breaches incurred by the Respondent, 2 Cheap Cars Limited (2CC). The arrears amount to \$20, 835.34.

[2] The Labour Inspector also claims penalties for the breaches of employment law.

[3] 2CC has accepted the findings of the report of the Labour Inspector's investigation report dated 3 November 2016 and accepts liability for penalties.

Issues

[4] The issue for determination is the quantum of penalty in respect of the employment law breaches.

[5] In order to assist the Authority Counsel for the Parties have filed joint submissions in respect of this issue.

The Authority's Investigation

[6] The Parties agreed to the Authority determining this issue based on the Statement of Problem and the Statement in Reply, the affidavits filed by the Applicant, documents submitted by the Parties, and on the joint submissions from the Parties.

Background Facts

[7] 2 CC carries on business as a second-hand car dealer, operating 14 branches across New Zealand and currently employing approximately 83 employees.

[8] On 18 May 2015, the Labour Inspectorate, on the basis of media reports regarding 2CC's compliance with employment standards, visited 2CC's retail branches for the purposes of auditing its compliance.

[9] As part of its investigation, the Labour Inspector obtained from 2CC:

- (a) A list of employees employed by 2CC over the last two years;
- (b) IR345 and IR348 forms for 2CC;
- (c) Holiday and leave records for 12 employees;
- (d) Employee agreements for all 12 employees;
- (e) Pay records for 12 employees;
- (f) Manager sales reports;
- (g) Payslips for 12 employees; and
- (h) Vehicle offer and sale agreements for three employees.

[10] On the basis of these records, the Labour Inspector conducted an analysis in respect of a sample of 12 employees. The Labour Inspector findings are set out in the affidavit and in the investigation report, the draft of which was submitted to 2CC on 31 October 2016.

[11] The findings of the Labour Inspector were as follows:

- (a) 2CC's wage and time records did not comply with s.130 of the Employment Relations Act 2000 (the ERA);
- (b) 2CC's holiday and leave records for seven of the sampled employees were not compliant with s.81 of the Holidays Act 2003 (the HA);
- (c) 2CC failed to pay, calculate and provide annual holiday entitlements in accordance with the HA for various sampled employees, resulting in arrears totalling \$15,533.44;
- (d) 2CC failed to pay, calculate and provide entitlements for public holidays for various sampled employees in accordance with the HA, resulting in arrears totalling \$4,697.34;
- (e) 2CC failed to provide an employment agreement compliant with s.52 of the HA for two employees;
- (f) 2CC failed to pay three employees the minimum wage for every hour worked in accordance with the Minimum Wage Act 1983(MWA) resulting in arrears totalling \$604.56.

[12] The total arrears identified amounted to \$20,835.34.

[13] By email, Mr Eugene Williams, CEO of 2CC, acknowledged the draft investigation report and stated:

We will accept your findings and move on from this, hopefully with better systems.

[14] On 8 November 2016, 2CC paid the arrears and leave entitlements as outlined in the Labour Inspector's draft report.

[15] Given the systemic nature of the breaches, on 3 November 2016 the Labour Inspector issued an Improvement Notice to 2CC to rectify the issues identified in the

investigation report for its current and former employees. The Improvement Notice set out various steps for 2CC to comply with, most of which required 2CC to audit its recordkeeping practices and pay.

[16] 2CC engaged an external auditor (New Zealand Payroll Practitioners Association) (the Auditor) to audit its recordkeeping practices and pay and in order to assist it in complying with the Improvement Notice.

[17] On Friday, 14 July 2017, the Labour Inspector received the Auditor's report and calculation.

[18] The current proceedings in the matter before the Authority relates to the 12 employees identified as part of the Labour Inspector's investigation in respect of which total arrears totalled \$20,835.34.

[19] However, the Auditor's report identified \$251,502.59 minimum wage and holiday pay arrears owing to 2CC's other previous and current employees and which have been repaid either to the employees directly or to MBIE's trust account for onward disbursements for employees of 2CC which it has not been able to contact.

[20] Accordingly, the parties acknowledge that the audit uncovered a broader issue and the penalty agreed upon by the parties later in their joint submissions takes into account that broader issue as an aggravating factor and as part of the overall proportionality for the penalty to be imposed under the proceedings such that the agreed penalty in the submissions is much greater than would ordinarily be imposed if the penalty was being imposed in respect of only the \$20,835.34 in arrears and the employment breaches arising in respect of the issues identified in paragraph [11].

[21] The Labour Inspector confirms that 2CC has paid all outstanding arrears identified by the Auditor's report directly to employees or into the MBIE trust account to be paid to the employees that 2CC was unable to locate.

Penalty action

[22] 2CC has failed to comply with minimum standard employment obligations which make it liable to penalty actions brought by a Labour Inspector. The Authority has exclusive jurisdiction to make determinations about employment relationship

problems, including actions for the recovery of penalties as set out in s.161(1)(m) of the ERA.

[23] As the conduct arising in this case occurred after the commencement of the Employment Relations Amendment Act 2016, the amendments made to that Act apply to this proceeding, in particular, s.133A of the ERA outlines the matters the Authority and Court must have regard to in determining the amount of penalty. As set out in s.133A of the ERA, they are:

- (a) The objects stated in s.3; and
- (b) The nature and extent of the breach or involvement in breach; and
- (c) Whether the breach was intentional, inadvertent or negligent; and
- (d) The nature and extent of any loss or damage suffered by any person, or gains made or losses avoided by the person in breach or the person involved in the breach, because of the breach or involvement in the breach; and
- (e) Whether the person in breach or the person involved in the breach has paid an amount of compensation, reparation, or restitution, and has taken other steps to avoid or mitigate any actual or potential adverse effects of the breach; and
- (f) The circumstances in which the breach, or involvement in the breach, took place, including the vulnerability of the employee; and
- (g) Whether the person in breach or the person involved in the breach has previously been found by the Authority or the Court in proceedings under this Act, or any other enactment, to have engaged in any similar conduct.

[24] The Authority may give judgment for the total penalties applicable to all the breaches or any of them not exceeding the maximum, or it may dismiss the claim pursuant to s135(4) of the ERA.

[25] The parties accept that the maximum penalty should be reserved for the most serious of cases and that this claim does not fall into that category.

[26] The standard of proof for the imposition of a penalty in this jurisdiction is on the balance of probabilities¹.

[27] In *Borsboom v Preet PVT Ltd*² (*Preet*) the Full Court of the Employment Court identified the factors for imposing a penalty for breach of minimum employment standards under the Act. In so doing it considered the previous approaches taken by that Court and its predecessor, the Labour Court.

[28] In determining the penalty claim, I follow the four step approach as set out by the Employment Court in *Preet*.

Step 1: Identify the nature and number of the breaches and the maximum penalty available

[29] The Labour Inspector has claimed penalties in respect of breaches of the following heads of breach:

- (a) Failure to keep compliant wage and time records (x7)
- (b) Failure to keep compliant holiday and leave records (x7)
- (c) Failure to provide employment agreements compliant with s 52 of the HA (x2)
- (d) Failure to correctly calculate, pay and provide annual holiday entitlements in accordance with ss 21-28 of the HA (x10)
- (e) Failure to correctly calculate, pay and provide public holiday and alternative holiday entitlements in accordance with ss 40, 49, 50, 55, 56 and 60 of the HA³ (x6)
- (f) Failure to pay at least the minimum wage for every hour worked in accordance with the MWA (x3)

[30] Of the \$20,835.34 total arrears identified, the annual holiday pay component was \$15,533.44 (approximately 75% of the total), the public holiday component was

¹ *Xu v McIntosh* [2004] 2 ERNZ 488 at [28] and [29]

² *Borsboom (Labour Inspector) v Preet Pvt Ltd & Warrington Discount Tobacco Ltd* [2016] NZEmpC 143

³ The Applicant has, with the agreement of 2CC, grouped breaches in accordance with annual holiday and public holiday and public holiday and alternative day entitlements. I accept this approach is pragmatic and acceptable,

\$2,875.39 (approximately 14% of the total), the alternative holiday component was \$1,821.95 (approximately 9% of the total) and minimum wages \$604.56 (approximately 3% of the total).

[31] It is submitted by the parties that global penalties under the first 3 heads of breaches claimed (wage and time and holiday and leave records and failure to provide employment agreements that complied with s 52 of the HA) are appropriate

[32] Citing *Labour Inspector v Precise Contracting Limited*⁴ and *Labour Inspector v D K Transport (20090 Limited)*⁵ the Parties submit that the lack of correct systems in terms of record keeping, failure to provide written employment agreements and deficient administration, is essentially one of ongoing breach.

[33] In respect of the holiday pay breaches, the Parties agree that the failures to properly pay holiday pay affected each employee, and that it is not appropriate to impose a global penalty for that reason.

[34] With reference to the annual and public holiday breaches, the parties submit that it is permissible for the Authority to look at the repeated failures in relation to providing correct entitlements for each employee as a single course of conduct constituting one breach. The Parties submit that the breaches show a consistent pattern of a breach of the statutory requirements in relation to annual and public holiday pay.

[35] It is accordingly submitted that at the first stage 2CC is liable to maximum penalties of \$440,000.00 (in respect of 22 breaches, each breach being liable to a penalty of up to \$20,000.00).

[36] Having considered the submissions made by Counsel on behalf of the Parties, I accept them in respect of this first step.

Step 2: Assessment of the severity of the breaches

[37] The factors the Court must have regard to in determining the appropriate penalty under s.133A of the Act have been summarised in the recent Employment Court case of *Lumsden v Sky City Management Ltd*⁶ as including whether the breaches

⁴ [2017] NZERA Christchurch 56 at [142] and [145]

⁵ [2017] NZERA Auckland 97 at [9]

⁶ *Lumsden v SkyCity Management Ltd* [2017] NZEmpC 30

were committed knowingly or calculatedly, the duration of the breach, the number of people affected adversely and the extent of any departure from the statutory requirements. A history of previous breaches may also be relevant.

[38] In its Statement in Reply 2CC identified its non-compliance as attributable to, and arising from, its rapid growth in a 5 year period. This explanation is supported by the affidavit evidence of its HR Manager which notes an increase in turnover of 11,203.7% in that period.

[39] 2CC accepted its non-compliant systems and stated it was in the process of rectifying this.

[40] Whilst the Labour Inspector accepts that the inaccuracies and incompleteness of the records and resulting arrears by 2CC may not have been intentional, Counsel submits that its failures were negligent and caused the Labour Inspector difficulty in establishing whether or not minimum code breaches had occurred.

[41] The difficulties associated with 2CC's poor records were identified by the Auditor in section 5 of its report: 'Audit Results Overview, Employee Records' which states: "*the quality of the historical records provided was poor and recalculations were required*" and: "*The issues with employee records had a major impact on tis audit ...*"

[42] The parties are in agreement that the ERA wage and time record keeping breaches can be assessed at 50% of the total maximum, or \$10,000.00. I note the observation that while some pay records existed; these were clearly not accurate or fully compliant with s 130 of the ERA. This reduces the provisional penalty to \$430,000.00.

[43] It is submitted that the HA recordkeeping breaches can be assessed at 50% of the total maximum, at \$10,000.00. This reflects the fact that 2CC did have some holiday and leave records in place. This reduces the provisional penalty to \$420,000.00.

[44] The parties submit that the breach of s52 of the HA in respect of individual employment agreements for two employees can be assessed at 10% of the maximum or \$2,000.00, taking into account that:

- (a) 2CC did not fail to provide written employment agreements in their entirety but failed to include one relevant clause in respect of those written agreements;
- (b) The omission in respect of the two employees identified appeared to be an anomaly given that the remaining 10 employees all had the relevant clause contained in their employment agreements;
- (c) 2CC has confirmed that all of its current employees have employment agreements which include the relevant clause;
- (d) The Labour Inspector, having seen a copy of 2CC's template employment agreement, is satisfied that its standard terms and conditions includes the relevant clause such that the obligation at s 52 of the HA is discharged; and
- (e) A penalty of the amount proposed above is in line with the range imposed under applicable case law⁷

[45] This reduces the provisional penalty to \$402,000.00.

[46] Employers in New Zealand are expected and considered to know the minimum legal requirements in respect of their employees, and to adhere to them. As set out in *Labour Inspector v Cypress Villas Ltd (Cypress Villas)*: Ignorance of the law is no defence⁸ In that case the Employment Court observed:

[29] ... Minimum wages have been a feature of new Zealand statutory employment law for almost 80 years and are well-known, or ought to be, to all employers.

[30] ... Minimum holidays and holiday pay, like minimum wages, are a long-established feature of the employment landscape in New Zealand and cannot be unknown to employers or those who advise and represent them.

[47] It is submitted that while these proceedings have been taken in relation to the sample of 12 employees whose records were analysed by the Labour Inspector, that the systemic breaches in relation to record keeping have resulted in wage and holiday pay arrears of \$251,502.59 to other 2CC employees. The Parties submit that those

⁷ Citing *Kimi-Cross v Knowear Ltd* [2016] NZERA Auckland 133 at [56] and *Labour Inspector v A & I Zoknic & Sons Ltd* [2016] NZERA Auckland 296 at [35]

⁸ *Labour Inspector v Cypress Villas Ltd* [2015] NZEmpC 157 at [29]

wider circumstances ought to be considered as an aggravating factor when determining proportionality for the penalty to be imposed in respect of this proceeding.

[48] It is also noted that there is an element of vulnerability present in nine of the sampled employees who were on temporary visas. It is submitted that further to their visa status, the employees (as non-New Zealand nationals or residents) may have been unfamiliar with New Zealand employment law and their entitlements under employment legislation, and how to access the information.

[49] The Parties also agree that the need for deterrence is important and 2CC's obligation to ensure it maintains an adequate system of keeping records and to ensure effective administration is basic and fundamental.

[50] Taking these factors into account it is submitted that a reduction to 40% of the Step 1 maximum of the breaches of the HA (being the 16 breaches identified in paragraphs [29] and [30]) is appropriate or \$128,000.00. This reflects the non-compliance in relation to paying and calculating annual and public holiday pay to the sampled employees and the varying amounts owed to the employees, which in most cases was moderate. This reduces the provisional penalty to \$210,000.00 (i.e. \$402,000.00 - \$192,000.00.)

[51] The MWA breaches may also be reduced to 10% of the total maximum (\$60,000.00), or \$6,000.00. This takes into account the amount of minimum wages owed, which was not significant (indeed one of the arrears amounted to \$4.19).

[52] This results in a provisional total of \$156,000.00 (i.e. \$210,000.00 minus \$60,000.00 plus \$6,000.00).

[53] The parties agree to a 35% reduction to the provisional penalty across the board, in light of the following mitigating factors:

- (a) 2CC's cooperation with the Labour Inspector's investigation, including prompt acceptance of the Labour Inspector's findings;
- (b) 2CC undertaking an external audit of whether employees are owed wage or holiday pay arrears;

- (c) 2CC repaying in full any arrears identified by the Labour Inspector (as part of his investigation) and the external Auditor as owing;
- (d) 2CC making timely payment to the 12 employees who are the subject of these proceedings when such arrears were accepted as being owed;
- (e) The deficiencies identified appearing to be caused by negligence rather than a deliberate attempt to exploit workers;
- (f) 2CC taking steps to manage non-monetary breaches such as ensuring that all current employees' contracts contain the requisite clause required under s.52 of the HA;
- (g) 2CC amending its practices to the satisfaction of the Labour Inspector with regard to its record keeping requirements; and
- (h) 2CC cooperating with MBIE in respect of these proceedings, including admitting liability at the outset of the proceedings and proposing ways in which to deal with this matter in an efficient and effective manner (including proposing to deal with these proceedings on the papers and by saving the Authority and the parties further time and costs by proposing and agreeing these Joint Submissions with MBIE).

[54] 2CC has also advised that its systems have been modified to ensure that it is compliant with minimum employment code and recordkeeping obligations.

[55] The Step 2 subtotal is therefore \$101,400.00.

Step 3: financial circumstances of the Respondent Employer

[56] 2CC has not put forward any grounds for a reduction to the provisional penalty under Step 3.

[57] There is no adjustment made to the provisional penalties at this stage of the process.

Step 4: Proportionality or totality test

[58] The parties acknowledge that in accordance with *Preet*, penalties imposed should be in proportion to the amounts of money unlawfully withheld from the

employees as a result of 2CC's breaches and, in accordance with s.133A of the Act, the circumstances in which the breach took place.

[59] Additionally that the final penalties set should not be at such a level that the liable employer either has an incentive for not paying or cannot pay them.⁹

The parties' Joint Submissions

[60] The parties have agreed that in the circumstances a penalty of \$70,000.00 is appropriate and respectfully submit that the Authority imposes a penalty of that agreed amount.

[61] For the purposes of these joint submissions, the parties set out below the rationale for the agreed penalty set out above.

[62] The total amount of arrears owed in respect of these proceedings is \$20,835.34. The submission at paragraph 15 that the recordkeeping breaches were systemic, and affected other employees not part of the Labour Inspector's sample analysis and these proceedings is reiterated. The Parties submit that this wider contextual backdrop ought to be treated as an aggravating factor and form part of the broader analysis of what penalty is proportionate under Step 4, following agreement of the provisional penalty of \$101,400.00 under Step 2 above.

[63] The Parties note that the approach of the Authority in applying the proportionality step for penalty analysis has been somewhat varied.

[64] A number of Authority decisions have applied the proportionality analysis to give a final penalty figure which is a multiple of 1:1.2-1:1.5 of the arrears owed in the given proceedings.

[65] In *A Labour Inspector v White Developments Ltd*¹⁰

- (a) The Authority considered two alternative approaches in the cases that were analysed:

⁹ *Preet* at [190] and [191]

¹⁰ [2017] NZERA Christchurch 87:

- (i) A penalty imposed on the basis of the ratio of unlawfully withheld money ('Unlawfully Withheld Money Ratio'); and
 - (ii) A penalty imposed on the basis of the proportionality between the maximum possible penalties and the actual penalties imposed ('Maximum Penalty Proportionality');
- (b) Having established the Authority's approach, the Member in *White* proceeds at paras.[47] to [54] to set out his analysis of a number of recent cases where there were multiple breaches of employment law obligations;
- (c) Applying the Unlawfully Withheld Money Ratio, the Authority determined at [49] that in the cases analysed, the amount of the penalty imposed in most cases was 1.2-1.3 times the amount withheld. Indeed, in *Preet* itself the penalty imposed was 1.3 times the arrears withheld and the Employment Court was satisfied that was proportionate;
- (d) Applying the Maximum Penalty Proportionality approach, the Authority determined at [51] that a similar penalty result applied when compared with the penalty figure under the Unlawfully Withheld Money Ratio. The Authority used the case of *A Labour Inspector v Manukau Auto Valet Ltd*¹¹ as an example, noting that in that case, which involved 307 employment law breaches and a maximum possible penalty of \$6,000,140.00 the resulting penalty was 2.4% of the maximum possible penalty (i.e. a penalty of \$145,000.00 was imposed¹². The Authority noted that when applying the Maximum Penalty Proportionality approach in cases where there are a high number of breaches, and therefore a high maximum penalty amount, the imposition of penalties tends to be in the region of 1-3% of the maximum penalty amount.

[66] In *A Labour Inspector v IXL Petroleum & Gas Ltd*¹³:

¹¹ [2017] NZERA Auckland 85

¹² *Manukau Auto Valet* at [46]

¹³ [2017] NZERA Auckland 128:

- (a) This determination was referred to in the *White* determination referred to above. 2CC notes in particular the Labour Inspectorate's acceptance that total penalties in other cases would exceed underpayments by an approximate 1:1.4 ratio. This is just outside the ratio range referred to in *White* at para.[65] (iii) above;

[67] In *A Labour Inspector v Bahn Thai Restaurant Ltd*¹⁴ :

- (a) This case concerned 33 employment law breaches. The number of breaches in this proceeding is 22;
- (b) From a starting point of \$660,000.00 in provisional penalties, the Authority imposed total penalties of \$25,000.00 which equates to just over 3.78% of the total maximum penalties. Again this is broadly consistent with the approach taken in *White*;

[68] Other Authority determinations which take a different approach to proportionality include:

- (a) *A Labour Inspector v Wyatt Farm Ltd* [2017] NZERA Christchurch 100 the Member imposed a \$7,000.00 penalty in respect of six minimum code breaches, one of which resulted in a \$1,550.84 in minimum wage arrears;
- (b) In terms of proportionality, the Member noted the failure to keep clear and accurate records was the main issue and that penalties should be at a level where there is a real prospect of it being paid but also at a level to reflect the harm done and the seriousness of the breaches and to deter similar behaviour¹⁵;
- (c) In *A Labour Inspector v Direct Auto Importers (NZ) Ltd* [2017] NZERA Auckland 195, the Authority imposed a final penalty of \$50,000.00 in respect of breaches of the ERA, the HA and MWA for three employees and \$726.00 arrears. The Authority imposed a \$50,000.00 penalty noting that that figure represented one quarter of

¹⁴ [2016] NZERA Christchurch 22

¹⁵ At [27] and [29]

the global penalties that could have been awarded and a fifth of the maximum penalties before globalisation;

[69] *A Labour Inspector v BBS Horticulture Ltd*¹⁶ and *A Labour Inspector v Auckland Drainage Plumbing Services Ltd*¹⁷:

- (a) Finally, the parties note the above determinations in which Member Robinson presided;
- (b) In *BBS* the penalty imposed was approximately 60% of the final provisional penalty amount¹⁸. Applied to the current proceedings, that would amount to a penalty of \$60,840.00;
- (c) In *Auckland Drainage* the penalty imposed was 4.3% of the total maximum penalty (which would equate to a penalty of \$18,920.00 in these proceedings) and was 15% of the final provisional penalty (which would equate to a penalty of \$15,210.00 in these proceedings).

[70] Paragraph [61](f) sets out the effect of applying the *BBS* and *Auckland Drainage* cases to these proceedings. By way of further example, if the Authority were to apply the principles of *White*, *Manukau Auto Valet*, *IXL Petroleum* and *Bahn Thai*, to these proceedings, penalties in the range of the following would apply:

[71] Under the unlawfully withheld money ratio, a penalty of between \$25,003.66-\$29,170.93 (being ratios of 1:1.2-1:1.4 of the arrears withheld); and

[72] Under the maximum penalty proportionality approach, a penalty of between \$4,440.00 - \$16,632.00 (being 1%-3.78% of the total maximum penalty).

Proportionality in the wider context

[73] However, the parties are mindful that significant arrears have been identified in respect of employees other than the 12 sample employees under these proceedings. 2CC accepts that the Labour Inspector seeks a level of penalty that takes into account the employment law breaches and arrears of the 12 subject to these proceedings and also is proportionate

¹⁶ [2017] NZERA Auckland 172

¹⁷ [2017] NZERA Auckland 134

¹⁸ *A Labour Inspector v BBS Horticulture Ltd* [2017] NZERA Auckland 172 at [57] and [60]

[74] Accordingly the parties agree that a penalty of \$70,000.00 is appropriate and proportionate in all the circumstances. The parties submit that the level of penalties specifically takes into account the circumstances not only of these proceedings and also is proportionate given the wider context of breaches and arrears relating to the employees who do not form part of the group of 12 sample employees in respect of this proceeding.

[75] Although it is noted that this penalty exceeds the level applied in some of the Authority decisions cited above, as outlined earlier, the parties submit that the Authority's approach in respect of the proportionality step has been somewhat diverse and that the facts of this particular case are unusual. It is submitted that a penalty at this level is proportionate in all the circumstances and achieves deterrence, both specifically for this employer and generally for other employers.

[76] The parties respectfully request that the Authority imposes a penalty in the sum of \$70,000.00.

[77] Having fully considered all the circumstances, and assisted by the Joint Submissions of Counsel for the Parties, I determine that applying a penalty of \$70,000.00 is appropriate.

[78] Accordingly I order that 2CC pay the Authority a total of \$70,000.00, for transfer to a Crown bank account within 28 days of the date of this determination.

Filing Fee

[79] The Labour Inspector seeks reimbursement of the filing fee for the application, being \$71.56. 2CC does not oppose this submission.

[80] I order that 2CC pays the Labour Inspector, the Authority's filing fee in the sum of \$71.56.

Costs

[81] Although the Authority's investigation meeting was conducted on the papers, the Labour Inspector seeks a nominal contribution to its costs of \$350. 2CC does not oppose this submission.

[82] Accordingly I order that 2CC pay to the Labour Inspector the sum of \$350.00 towards its legal costs pursuant to clause 15 of Schedule 2 of the Employment Relations Act 2000.

**Eleanor Robinson
Member of the Employment Relations Authority**