

matter, and a determination was required. Thus, I conclude both parties were committed to an investigation and a determination of the issues.

[5] The applicant has put the respondent to the cost of defending the allegations and claims that were made. Costs should follow the event where the respondent successfully defended the matter. I note that the respondent's actual costs were \$7,312.50 comprising work on a statement in reply, witness statements, submissions and attendance. The respondent is seeking a proportion of that sum.

[6] I accept that the respondent has incurred costs for representation. Since it was successful it should get a contribution from the applicant as a matter of principle.

[7] The Authority's range of costs is \$1,500 to \$3,000 per day. Nothing has been put before to change from a tariff approach to costs. The process followed by the Authority was in the nature of an inquisitorial investigation and not a trial. To make an award beyond the usual range would not be justified, especially as both parties had an interest in the outcome and were genuinely in dispute. Both parties went about organising their work in the Authority expeditiously and in such a way as to minimise costs. It was not unreasonable that a further telephone conference was needed after the Authority's investigation meeting to close off all matters, but in best practice that should not really happen if the parties properly used the opportunity to produce all their documents beforehand. The actual cost for this has not been itemised, and it was only an incidental aspect of the Authority's investigation. I have incorporated it as part of the cost for attendance in the whole round. The parties attended mediation, albeit the circumstances were unusual. A positive spin on the use of the investigation process is that both parties should now know the best practice in promoting their relationships and operating their dispute resolution processes properly.

[8] I have been asked to consider the applicant's inability to pay as a factor to be taken into account as she is a low paid worker. There is no evidence that over time the applicant will not be able to pay or to make some arrangement to pay a reasonable sum towards the respondent's costs since it was successful. The flexible range of the Authority's tariff approach to costs makes allowance for low paid workers. Given the nature of the applicant's employment relationship problem and the inherent risks in coming before the Authority for an investigation, when better practice might have

resolved the matter earlier, the applicant will be required to pay more than the bottom line in the range I referred to above because the respondent was successful. Also, it is the respondent's right to defend the allegations that were made and will not necessarily always involve the employer being required to pay the employee to resolve problems. That was the risk the applicant took coming before the Authority and to pursue her claims. The applicant now has to meet some of the cost for that. It is my decision that a reasonable contribution would be \$2,000 for costs incurred by the respondent for preparation and attendances in the Authority.

[9] Ester Samaeli is ordered to pay OCS Limited \$2,000 contribution towards its costs.

P R Stapp
Member of the Authority