

advised that an application for legal aid had been made and asked for further time for a substantive reply to the costs application. Counsel for SPM did not object so further time was permitted. Unfortunately that is where the matter rested until SPM's inquiry through counsel late last month. The Authority's recent attempt to get some response from the Hamilton solicitor has come to nothing. SPM is not responsible for this delay and is overdue the answer now given to its claim for costs.

[4] Because of the initial uncertainty about whether Mrs Tuari personally or through counsel had been served with SPM's costs submissions, counsel proposed a form of order for costs that would have allowed Mrs Tuari 21 days from notice of the order to seek a rehearing or reopening. That is now not necessary because the Authority provided the submissions to Mrs Tuari's Hamilton solicitors at their request following their advice that they acted for her.

[5] SPM seeks \$12,000.00 costs while noting that generally modest awards of around \$2,000.00 per day prevailed at the time. Counsel refers to a four day hearing but the Authority record is of a total of three meeting days. Counsel also supports the claim by reference to elements of contrivance and connivance in Mrs Tuari's claim. I am not told what SPM's legal costs were but it is fair to assume that they are substantially more than the claim.

[6] The proceedings dealt with separate but related files: claims by Mrs Tuari against SPM and several managers, SPM against Mrs Tuari, SPM against Mr Tuari and Mr Tuari against SPM and several managers. SPM brought Mr Tuari into the picture presumably as a tactic to deter Mrs Tuari whose personal grievance claims started the ball rolling. To the extent that claims against and by Mr Tuari unnecessarily added to the time and costs involved that should not be visited upon Mrs Tuari. Having said that, much of the evidence relevant to the claims against and for Mr Tuari needed to be canvassed for a proper understanding of Mrs Tuari's personal grievance and penalty claims and SPM's damages and penalty claims against her. Given this I will treat the matter as a two and a half day investigation meeting for the purposes of assessing costs against Mrs Tuari.

[7] The sole substantial reason to treat the matter other than as an application of a daily tariff would be to punish Mrs Tuari for what counsel refers to as her contrivance and connivance. However as counsel notes that is not a function of a costs award. That leads to the conclusion that SPM is entitled to costs assessed on a daily tariff

basis which amount to \$5,000.00. Added to that should be some allowance for travel and accommodation costs for counsel and company managers which I set at \$1,500.00.

[8] I order Mrs Tuari to pay Sims Pacific Metals Limited a total of \$6,500.00 for costs and expenses.

P Cheyne
Member of the Employment Relations Authority