



5. Mr Quigg, in support of the level of the claim by Asnet, submitted that the Applicant's contribution towards the costs should be in excess of the notional daily tariff rate of \$3,500.00 on the basis of the Applicant's conduct which he claims increased the costs of Asnet unnecessarily. Specifically Mr Quigg highlights the Applicant's conduct :
- In changing the nature of his claim and the remedies sought several times from the initial claim in the Statement of Problem filed with the Authority on 5 October 2011. In particular:
    - i. Mr Vlug stated that he would be seeking reinstatement on 16 December 2011 which necessitated Asnet addressing this issue. This preparation and the associated costs proved to be incurred unnecessarily as Mr Vlug withdrew this reinstatement claim.
    - ii. In his witness statement dated 15 March 2012 Mr Vlug further changed his claim from that set out in the Statement of Problem; however Asnet had prepared its evidence on a preliminary basis based on the claim contained in the Statement of Problem, and this change caused Asnet further unnecessary expense.
  - In filing a witness statement from Ms Sheila Anderson dated 15 March 2012 which contained irrelevant evidence and consisted primarily of personal attacks on Mr Steve Harrington, the Managing Director of Asnet. In preparing for the Investigation Meeting Asnet had incurred further unnecessary expense by having to consider and address this irrelevant witness statement.
6. Mr Vlug claims that his financial situation has been severely compromised between 22 August 2011 until March 2012 and his personal income has dropped by \$50,000.00. Mr Vlug has supplied information concerning the level of his personal debt to the Authority.
7. The principles applicable to awards of costs in the Authority are well established. It is a principle set out in *PBO Limited (formerly Rush Security Ltd) v Da Cruz*<sup>1</sup> that costs are modest. A tariff based approach is that usually adopted by the Authority, which has the discretion to raise or lower the tariff, depending on the circumstances. For

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<sup>1</sup> [2005] 1 ERNZ 808

slightly in excess of a half days of Investigation Meeting, would normally equate to an award of \$2,000.00.

8. It is not appropriate for the Authority to impose hardship upon an unsuccessful party to proceedings, however I find that in all the circumstances surrounding this case, particularly as regards the conduct of Mr Vlug during the course of the proceeding, Asnet as the successful party is entitled to some recompense for costs. In the circumstances I believe that it is appropriate to raise the tariff. Consequently I determine that a contribution towards costs of \$2,500.00 is a reasonable contribution.
9. Accordingly, Mr Vlug is ordered to pay Asnet \$2,500.00, pursuant to clause 15 of Schedule 2 of the Employment Relations Act 2000.

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