

**IN THE EMPLOYMENT COURT
AUCKLAND**

**AC 5A/09
ARC 18/08**

IN THE MATTER OF a challenge to a determination of the
Employment Relations Authority

AND IN THE MATTER OF an application for costs

BETWEEN PAUL EDWARD ROEBECK
First Plaintiff

AND DAVID JOHN PAKIETO
Second Plaintiff

AND BRADFORD TRUST LIMITED
Defendant

Hearing: by memorandum of submissions filed on 24 March 2009

Judgment: 26 March 2009

SUPPLEMENTARY COSTS JUDGMENT OF CHIEF JUDGE GL COLGAN

[1] By a judgment issued on 4 March 2009 I dismissed the plaintiffs' challenge for want of prosecution and as an abuse of the Court's process. I reserved costs.

[2] The defendant has now applied for costs of \$2,500 against the plaintiffs jointly and severally as a contribution to its legal costs incurred on the challenge.

[3] Counsel for the defendant has helpfully set out a chronological description of the attendances for which the defendant incurred costs. I accept that all attendances were reasonably incurred. Although I mean no criticism of the defendant, which was entitled to counsel of its choice, and of counsel, the attendances were such that they could have been undertaken substantially, if not completely, by less senior counsel. It is a principle of costs awards that those against whom they are made should not be

required to contribute to the reimbursement of a fee that could have been less had more junior, but nevertheless competent, counsel undertaken the work.

[4] In these circumstances I award the defendant the sum of \$1,750 towards its costs.

GL Colgan
Chief Judge

Judgment signed at 11 am on Thursday 26 March 2009