

[1] Mr Zhang applied for leave to appeal a substantive decision of the Employment Court and a related costs decision. He required an extension of time to make the leave application. This Court granted an extension of time to apply for leave to appeal but dismissed both applications for leave.¹

[2] The respondent, Telco Asset Management Ltd (Telco) has applied for costs for a standard appeal.² Its calculation, in accordance with the relevant provisions of the Court of Appeal (Civil) Rules 2005 (the Rules), puts the total costs at \$11,233: \$1,673 for the application to extend time and \$6,214 and \$3,346 for the respective applications for leave to appeal. No disbursements are sought.

[3] Mr Zhang responded by way of an email to the Registry. He does not dispute Telco's calculation but says that he ought not to have to pay costs because there was no order to that effect in the judgment. He invites the Court to ignore Telco's costs memorandum.

[4] The fact that no order was made in the judgment of 8 June 2020 does not preclude Telco from applying for costs by way of memorandum, which is quite usual. Costs are at the discretion of the Court but normally determined in accordance with the principles stated in the Rules.³ Relevantly, the general principle is that the party who fails in an appeal or application should pay costs to the party who succeeds.

[5] Mr Zhang's application for leave to appeal posed more than a dozen questions of law. None had any merit but Telco had to respond to them nevertheless. There is no good reason to depart from the usual principle. There is an order for costs in accordance with Telco's memorandum as to costs dated 10 June 2020.

Solicitors:
Charles McGuiness Barrister and Solicitor Limited, Wellington for Respondent

¹ *Zhang v Telco Asset Management Ltd* [2020] NZCA 223.

² Court of Appeal (Civil) Rules 2005, rr 53C(1)(a); 53G; and 53GA.

³ Court of Appeal (Civil) Rules, rr 53 and 53A.