

**IN THE EMPLOYMENT COURT OF NEW ZEALAND
AUCKLAND**

**I TE KŌTI TAKE MAHI O AOTEAROA
TĀMAKI MAKĀURAU**

**[2025] NZEmpC 101
EMPC 9/2023**

IN THE MATTER OF	a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER OF	an application for costs on application to dismiss proceedings
BETWEEN	DE KAI LU First Plaintiff
AND	YUZHEN QIU Second Plaintiff
AND	REBECCA YOUNG Defendant

Hearing: On the papers

Appearances: First plaintiff in person and as agent for second plaintiff
P Mathews, advocate for defendant

Judgment: 20 May 2025

**COSTS JUDGMENT (NO 2) OF JUDGE KATHRYN BECK
(Application for costs on application to dismiss proceedings)**

[1] In a judgment dated 4 April 2025, the Court dismissed the plaintiffs' challenge and indicated that the defendant, Rebecca Young, was entitled to costs.¹ Ms Young seeks costs based on the Employment Court of New Zealand Practice Directions, using category 2 band B.²

¹ *Lu v Young* [2025] NZEmpC 71.

² "Employment Court of New Zealand Practice Directions" (1 September 2024) <www.employmentcourt.govt.nz> at No 18.

[2] She submits that scale costs on a category 2 band B basis would provide costs in the order of \$9,799.

[3] The plaintiffs oppose the application. They say that they cannot afford to pay costs and that band A, as opposed to band B, is appropriate.

[4] I consider that the nature of these proceedings is appropriately category 1. They were relatively straightforward and the amount in dispute was low, although there were broader issues in relation to orders made against the plaintiffs requiring them to place the company in a position to meet its financial obligations. Further, I agree with the plaintiffs that band A is appropriate. A comparatively small amount of time was reasonable in the circumstances for the steps taken in these proceedings.

[5] As a result of being successful in her dismissal application, the defendant is entitled to costs for that application and for any steps taken in defending the dismissed challenge. Based on the material before the Court, I am not persuaded that a discount is warranted because of the plaintiffs' asserted financial positions.

[6] I consider that the defendant is entitled to scale costs on a category 1 band A basis for the following steps:

Commencement of defence (one page)	0.5 days
Preparation for directions conference	0.2 days
Filing memorandum for directions conference	0.2 days
Appearance at directions conference	0.2 days
Filing of interlocutory application	0.3 days
Preparation of written submissions (two pages)	0.5 days
Preparation of written submissions (costs)	0.5 days
Total	\$3,816

[7] In the circumstances, I consider that this amount is appropriate and is a fair representation of the work undertaken by the defendant. As noted in the table above, the statement of defence was less than one page, and any submissions were very brief.

[8] The plaintiffs sought leave to pay any costs award by instalments. However, in the circumstances of this case, where a security for costs order made against the plaintiffs sat unpaid for almost two years without any steps being taken to withdraw the challenge, I am not satisfied that it would be appropriate to make such an order.

[9] I order that the first and second plaintiffs pay the defendant \$3,816 as a contribution to her costs within 14 days of the date of this judgment unless an agreement as to alternative repayment options can be reached.

Kathryn Beck
Judge

Judgment signed at 11.45 am on 20 May 2025