

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

**I TE KŌTI TAKE MAHI O AOTEAROA  
ŌTAUTAHI**

**[2025] NZEmpC 11  
EMPC 292/2024**

IN THE MATTER OF an application for a compliance order

AND IN THE MATTER OF an application for costs

BETWEEN CARL SHANKS  
Plaintiff

AND RAY THOMAS AND RUTH THOMAS  
TRADING AS  
TE MATAI PARTNERSHIP  
Defendants

Hearing: On the papers

Appearances: D Pine and B A Miller, counsel for plaintiff  
Ray Thomas and Ruth Thomas, defendants in person

Judgment: 30 January 2025

---

**COSTS JUDGMENT OF JUDGE J C HOLDEN**

---

[1] Ray and Ruth Thomas seek an order that Carl Shanks pay them \$1,000 for costs for this proceeding, which was discontinued by Mr Shanks in November 2024. Mr Shanks says costs should lie where they fall. This judgment resolves Mr and Mrs Thomas's application.

**Mr Shanks sought a compliance order**

[2] Mr Shanks applied in this Court for a compliance order requiring Mr and Mrs Thomas to pay the full amounts they were ordered to pay Mr Shanks by the

Employment Relations Authority.<sup>1</sup> The total sum ordered to be paid was \$50,788.51.<sup>2</sup> The wages components of that sum totalled \$16,466.96.<sup>3</sup>

[3] The situation at the time Mr Shanks made his application was that Mr and Mrs Thomas had paid him \$41,250, but had withheld the balance of \$9,538.51, saying that was due to their responsibility to deduct PAYE tax.

[4] The parties have subsequently resolved the matter, leading to Mr Shanks discontinuing this proceeding. Costs were not addressed in the notice of discontinuance.

[5] Mr Pine, counsel for Mr Shanks, advises that, as part of the resolution of the matter, Mr and Mrs Thomas made a further payment to Mr Shanks.

### **Costs are at the Court's discretion**

[6] The Court has a broad discretion as to costs.<sup>4</sup> That discretion is exercised on a principled basis and in accordance with the interests of justice. The Court's discretion is assisted by its guideline scale on costs as set out in the Practice Directions.<sup>5</sup>

[7] Under the guideline scale, self-represented parties are able to make a claim for costs for steps taken from 1 September 2024. All the steps undertaken by Mr and Mrs Shanks followed that date; the first step taken by them was the filing of their statement of defence on 17 September 2024. Mr and Mrs Thomas advise that the amount now claimed of \$1,000 is calculated on a category 1, band B basis for two days, at the rate applicable for self-represented parties, being \$500 per day.<sup>6</sup>

[8] Costs may be payable on a discontinuance, covering the costs to a defendant of an incidental to the proceeding up to and including the discontinuance.<sup>7</sup> Here,

---

<sup>1</sup> *Shanks v Thomas (t/a Te Matai Partnership)* [2024] NZERA 203.

<sup>2</sup> At [24].

<sup>3</sup> At [24](a) and (c).

<sup>4</sup> Employment Relations Act 2000, sch 3 cl 19; and Employment Court Regulations 2000, reg 68.

<sup>5</sup> "Employment Court of New Zealand Practice Directions" [www.employmentcourt.govt.nz](http://www.employmentcourt.govt.nz) at No 18.

<sup>6</sup> High Court Rules 2016, sch 2 pt 2.

<sup>7</sup> Rule 15.23.

however, the discontinuance followed resolution of the dispute, which included Mr and Mrs Thomas making a further payment direct to Mr Shanks. That payment was only made in the face of the Court proceedings.

[9] In those circumstances, I consider an award for costs is inappropriate; costs should lie where they fall.

[10] Accordingly, Mr and Mrs Thomas's application is unsuccessful. No order for costs is made.

J C Holden  
Judge

Judgment signed at 2.30 pm on 30 January 2025