

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

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

**[2025] NZEmpC 75
EMPC 111/2024**

IN THE MATTER OF	an application for special leave to remove a matter to the Employment Court
AND IN THE MATTER OF	an application for costs
BETWEEN	YQO Applicant
AND	MYN Respondent

Hearing: On the papers

Appearances: M O'Brien, counsel for applicant
D Fleming, counsel for respondent

Judgment: 11 April 2025

COSTS JUDGMENT OF CHIEF JUDGE CHRISTINA INGLIS

[1] This judgment deals with an application for costs following the Court's judgment of 13 August 2024.¹ In that judgment the Court declined YQO's application for special leave to remove a matter to the Court, and reserved costs.

[2] The parties have been unable to agree costs and MYN has advanced an application. Timetabling directions were made for the exchange of memoranda; YQO

¹ *YQO v MYN* [2024] NZEmpC 152.

has not filed any response to the application. It is necessary to decide the application on the basis of the material before the Court.

[3] The Court has a broad discretion as to costs.² While the discretion is broad it must be exercised on a principled basis,³ consistently with equity and good conscience.⁴ The Court generally has regard to a Guideline Scale for costs⁵ but the factual context of each case will be considered in arriving at a fair and just contribution in the particular circumstances.

[4] MYN was wholly successful and I can see no reason why it should not receive a reasonable contribution to its costs in defending the application for special leave. The proceedings were assigned category 2B at an initial directions conference by agreement and were set down for a half day hearing.

[5] Costs are sought on a 2B basis. Counsel for MYN (who was not counsel during the hearing) confirms that MYN's actual costs exceeded scale costs, and notes that an adjustment to scale costs might reasonably be made to reflect the fact that an affidavit filed in support of the company's opposition was brief. I agree that a reduction is appropriate, and consider an allowance of time equating to half a day is reasonable in the circumstances. I also consider that a downwards adjustment is warranted in relation to the preparation of a joint memorandum for, and attendance at, a directions conference. The joint memorandum was very brief, as was the conference itself.

[6] Allowing scale costs for the filing of an opposition to the application, submissions and preparation for hearing, and attendance at a half day hearing, together with a reduced allowance for the other steps (equating to one day) leads me to a costs award of \$8,365.

² Employment Relations Act 2000, sch 3 cl 19; and Employment Court Regulations 2000, reg 68.

³ *Victoria University of Wellington v Alton-Lee* [2001] ERNZ 305 (CA) at [47].

⁴ See *Health Waikato Ltd v Elmsly* [2004] 1 ERNZ 172 (CA) at [45]; and Employment Relations Act 2000, s 189.

⁵ "Employment Court of New Zealand Practice Directions" <www.employmentcourt.govt.nz> at No 18.

[7] YQO is accordingly ordered to pay to MYN the sum of \$8,365 by way of contribution to costs. Such sum is to be paid within 28 days of the date of this judgment.

Christina Inglis
Chief Judge

Judgment signed at 1.00 pm on 11 April 2025