

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

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

**[2025] NZEmpC 88
EMPC 295/2024**

IN THE MATTER OF	a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER OF	an application for costs on interlocutory matter
BETWEEN	CUSHLA HURRELL Plaintiff
AND	MENOPAWS LIMITED T/A NUMBER 8 CAFÉ Defendant

Hearing: On the papers

Appearances: E Brankin, advocate for plaintiff
Y Hope, counsel for defendant

Judgment: 2 May 2025

**INTERLOCUTORY (NO 2) JUDGMENT OF JUDGE K G SMITH
(Application for costs on interlocutory matter)**

[1] The defendant's application for security for costs was unsuccessful.¹ Costs for that application were reserved. The parties were provided with an opportunity to file memoranda if agreement could not be reached.

[2] The parties have not reached agreement. At a telephone directions conference on 4 December 2024 this proceeding was provisionally allocated to Category 2A in

¹ *Hurrell v Menopaws Ltd t/a Number 8 Café* [2025] NZEmpC 25.

the Court's Guideline Scale.² The plaintiff has made a claim for costs calculated on a 2A basis which comes to \$1,912. Confirmation has been provided that the plaintiff's costs exceeded the sum sought.

[3] In response the defendant has accepted that costs calculated on a 2A basis come to \$1,912. However, the disagreement lies in the defendant's request for the Court to exercise its discretion to decrease the amount that might be ordered to be paid. The reason for seeking a reduction in any award is the defendant's contention that the plaintiff's conduct put it to unnecessary time and cost. It is not clear what conduct is relied on but an email chain accompanied the submissions showed that, at one point in time at least, the plaintiff sought a greater amount than is now calculated under the Guideline Scale and included a claim for GST.

[4] The Court has a broad discretion about awarding costs.³ That discretion must, however, be exercised on a principled basis.⁴ It must also be consistent with equity and good conscience.⁵ The Court generally has regard to a Guideline Scale for costs. The Guideline Scale is intended to support, so far as is possible, a policy objective that determining costs is predictable, expeditious and consistent. The guideline does not replace the Court's discretion but is a factor in exercising it.

[5] I am not persuaded that difficulties encountered in attempting to agree on costs is sufficient to justify a reduction in the amount that might otherwise be ordered.

Outcome

[6] The defendant is ordered to pay to the plaintiff \$1,912 for costs associated with the application for security for costs.

K G Smith
Judge

Judgment signed at 12.40 pm on 2 May 2025

² Employment Court of New Zealand Practice Directions" <www.employmentcourt.govt.nz> at No 18.

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

⁴ *Victoria University of Wellington v Alton-Lee* [2001] ERNZ 305 (CA) at [47].

⁵ See *Health Waikato Ltd v Elmsly* [2004] 1 ERNZ 172 (CA) at [45]; and Employment Relations Act 2000, s 189.