

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI
TĀMAKI MAKĀURAU ROHE**

[2026] NZERA 21
3316940

BETWEEN	ROELOF PETRUS BLIGNAUT Applicant
AND	WASTE MANAGEMENT NZ LIMITED Respondent

Member of Authority:	Sarah Blick
Representatives:	Daniel Church, counsel for the applicant Daniel Erickson, counsel for the respondent
Investigation meeting:	On the papers
Information and Submissions received:	30 September 2025 from the applicant 14 October 2025 from the respondent
Determination:	14 January 2026

COSTS DETERMINATION OF THE AUTHORITY

[1] In a determination dated 11 September 2025 the applicant Roelof Blignaut was determined to have been unjustifiably dismissed by the respondent Waste Management NZ Limited (WMNZ) and awarded remedies.¹ The Authority also found WMNZ breached good faith obligations and imposed a small penalty amount. Mr Blignaut did not establish unjustified disadvantage, breach of contract and arrears claims.

[2] The Authority reserved the issue of costs in the hope that the parties would be able to settle this issue between themselves. Unfortunately they have been unable to do so. Mr Blignaut applies for costs and disbursements. Both parties have filed submissions which have been considered.

¹ *Blignaut v Waste Management NZ Limited* [2025] NZERA 560.

Costs principles

[3] The Authority has power under clause 15 of Schedule 2 of the Employment Relations Act 2000 to award costs. This power is discretionary and must be used in a principled manner.² Principles guiding the Authority's approach to costs include:

- the statutory jurisdiction to award costs is consistent with the Authority's equity and good conscience jurisdiction
- equity and good conscience are to be considered on a case-by-case basis
- costs are not to be used as a punishment or as an expression of disapproval for an unsuccessful party's conduct, although conduct which increases costs unnecessarily can be taken into account in inflating or reducing an award
- costs generally follow the event
- awards of costs will generally be modest
- frequently, costs are judged against a notional daily tariff.

[4] The starting point for costs based on the Authority's daily tariff is \$4,500 for the first day of an investigation meeting, and \$3,500 for each day thereafter.

Costs assessment

[5] In *Coomer v J A McCallum and Son Ltd* the Employment Court observed that in cases of mixed success, the Authority must "stand back and look at things in the round".³ The Employment Court has stated that mixed success is nevertheless success for the purposes of awarding costs. WMNZ accepts that Mr Blignaut is entitled to costs but disputes the quantum he should be awarded. Mr Blignaut is entitled to an assessment of costs as the successful party.

[6] Mr Blignaut's costs submissions refer to the investigation meeting taking four days, giving a notional starting point of \$15,000. WMNZ points out that the investigation meeting spanned 3.5 days, resulting in a notional starting point of \$13,250. I accept the latter starting point as more accurately reflecting the meeting time.

² *PBO Limited (formerly Rush Security Limited) v Da Cruz* [2005] 1 ERNZ 808, and *Faggotti v Acme & Co Limited* [2015] NZEmpC 135.

³ *Coomer v JA McCallum and Son Ltd* [2017] NZEmpC 156 at [43].

[7] Due to the significant legal fees incurred in its defence, WMNZ submits awarding the notional daily tariff in circumstances where it was mostly successful would be punitive and unjustified. WMNZ says when looking at the situation ‘in the round’, Mr Blignaut was only successful in two of his eight claims. It disagrees with Mr Blignaut’s submission that the investigation meeting would have taken the two days’ time had the other claims not been heard, attracting an adjusted starting point of \$8,000.

[8] A significant portion of the meeting was used to hear Mr Blignaut’s claims about alleged bullying and unreasonable overtime, which were unsuccessful. Had those claims not been heard, the meeting would have been confined to the circumstances surrounding Mr Blignaut’s dismissal. WMNZ submits that the meeting in that case would have not exceeded one day. A reduction in costs to \$4,500 (being the equivalent of one day’s investigation meeting) is sought in the circumstances.

[9] I consider the investigation meeting would more likely have consumed one and a half days, taking into account the need for submissions. As such, I reduce the tariff amount to \$6,250.

[10] I do not accept Mr Blignaut’s submission that WMNZ’s conduct in the proceedings was of such a nature that would justify an uplift in costs. Its delay in the provision of witness statements was short and promptly explained by counsel. No discernible prejudice arose. Additionally, one of WMNZ’s witnesses did not attend the first days of investigation meeting to give evidence, having produced a medical certificate. I accept this was outside of WMNZ’s control, and in any event would not have increased Mr Blignaut’s costs unnecessarily. Finally, the Authority’s investigation was not prolonged as a result of the provision of additional documents by WMNZ after the first part-heard investigation meeting. Perusal of those documents and the seeking of instructions in relation to them ought not to have taken such additional time that would warrant an uplift to the tariff amount.

[11] WMNZ submits a further reduction should be made for Mr Blignaut’s rejection of three reasonable offers of settlement that it made. Given there would have been a significant cost savings for both parties if Mr Blignaut had accepted offers of settlement, WMNZ says it is appropriate for the Authority to reduce the amount of costs. Having regard to the stage of the proceedings and quantum of the offers, Mr Blignaut would

have been in a better position had he accepted them. The offers should be taken in account and warrant a reduction. WMNZ's suggested reduction of 20 per cent is appropriate, bringing the costs amount to \$5,000.

[12] Mr Blignaut has applied for costs in respect of his costs submissions. The Authority does not generally award costs on costs applications, and in this case I am not satisfied it would be consistent with the Authority's equity and good conscience jurisdiction to do so in this case.

[13] No further uplifts or reductions to costs are appropriate.

[14] The disbursement claims and the Authority application fee are accepted by WMNZ. These should be reimbursed.

Orders

[15] Within 14 days of the date of this determination I order Waste Management NZ Limited to pay the following amounts to Roelof Blignaut as follows:

- (a) Costs of \$5,000;
- (b) Disbursements of \$409.40 (including GST);
- (c) Authority application fee of \$71.55.

Sarah Blick
Member of the Employment Relations Authority