

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

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

[2023] NZERA 422  
3175502

BETWEEN CSJ  
Applicant  
AND JRL  
Respondent

Member of Authority: Andrew Gane  
Representatives: Michael Smyth, counsel for the Applicant  
Simon Buckingham, counsel for the Respondent  
Investigation Meeting: On the papers  
Submissions and other: 14 June 2023 from the Applicant  
material received: No submissions from the Respondent  
Date of Determination: 1 August 2023

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**COSTS DETERMINATION OF THE AUTHORITY**

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**Background**

[1] By determination dated 31 May 2023, I found CSJ was unjustifiably disadvantaged and unjustifiably dismissed by JRL.<sup>1</sup> I reserved costs and encouraged the parties to resolve any issues of costs between themselves.

[2] The parties have been unable to resolve costs. CSJ's representative provided submissions in support of CSJ's claim for an award of costs payable to CSJ by JRL. These submissions have been served on JRL, who has not responded.

[3] CSJ seeks payment of \$4,500.00 in costs and reimbursement of the \$71.55 lodging fee.

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<sup>1</sup> [2023] NZERA Auckland 285

## **Analysis**

### *Costs in the Authority*

[4] The power of the Authority to award costs is contained in cl 15 of sch 2 of the Employment Relations Act 2000. The principles and the approach adopted by the Authority in which an award of costs is made are settled.

### *Costs follow the event*

[5] I find there is no reason to depart from the usual principle that a successful party is entitled to a contribution towards their representation costs.

### *Application of the daily tariff*

[6] The Authority has adopted a daily tariff approach as the starting point for considering costs. This is well known, and the current daily tariff is \$4,500.00 for the first day of hearing, and \$3,500.00 for subsequent hearing days.<sup>2</sup>

[7] The parties can expect the Authority to adhere to this approach, unless there is good reason to depart from it.

[8] JRL has not put forward any argument as to why there should be a departure from the normal daily tariff rate of \$4,500.00 for the day of hearing. I find no reason to depart from using the daily tariff and that, therefore is the basis of the award of costs.

[9] The investigation meeting in this matter was for one day. The parties attended together with their representatives and other witnesses.

### *Conclusion*

[10] CSJ was the successful party and is entitled to receive an award of costs. This means CSJ is entitled to an award of costs of \$4,500.00 and reimbursement of the \$71.55 lodging fee.

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<sup>2</sup> For further information about the factors considered in assessing costs, see: [www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1](http://www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1) .

## **Orders**

[11] Accordingly, I order JRL to pay to CSJ the sum of \$4,571.55 towards costs within 14 days of this determination.

Andrew Gane  
Member of the Employment Relations Authority