

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2025] NZERA 811
3385403 & 3385483

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| BETWEEN | CAM NHUNG DUONG Applicant in 3385403 |
| AND | ANH THUY DAO Applicant in 3385483 |
| AND | AMY YEN TRAN Respondent |

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| Member of Authority: | Robin Arthur |
| Representatives: | Malcolm Dreaneen, advocate for the Applicants Respondent in person |
| Submissions received: | On 9 December 2025 by email from the Applicants. None from the Respondent. |
| Determination: | 16 December 2025 |

COSTS DETERMINATION OF THE AUTHORITY

[1] Cam Nhung Duong and Anh Thuy Dao applied to the Authority for orders to enforce payment of amounts due to them under settlement agreements made with their former employer Amy Yen Tran in March 2025. The agreements were certified under s 149 of the Employment Relations Act 2000 and their confidential terms could only be brought before the Authority for the purpose of enforcement.

[2] At the time of their applications to the Authority in June 2025 Ms Tran had paid a first instalment of money due to them but not the second.

[3] In response to an inquiry from the Authority Ms Tran advised on 17 October 2025 that the last payment of instalments due would be paid within seven days. On 12 November, some three weeks later, the advocate for Ms Dao and Ms Duong advised that those amounts remained unpaid.

[4] On 18 November Ms Tran advised those final payments had been made. She did not, however, pay an amount of costs Ms Dao and Ms Duong also sought because they had needed to apply to the Authority to seek enforcement of their settlement agreements. In a message to the Authority on 8 December Ms Tran said she did not agree to pay those costs “as it not part of agreement”.

[5] Ms Dao and Ms Duong then, through their advocate, asked the Authority to make an order for costs and expenses incurred in pursuing their applications. Ms Tran was given an opportunity to provide any response or comment on that request by 15 December 2026 but did not do so.

[6] Costs have been determined ‘on the papers’ taking account of the applications made and the parties’ correspondence with the Authority.

Factors

[7] In determining costs the Authority applies well-established tenets to the particular circumstances of the case.¹ Those tenets recognise that a successful party should receive a contribution to its reasonably incurred costs and expenses; costs should generally be modest and may not be used to punish an unsuccessful party; the nature of the case may allow for an order that costs lie where they fall; and the Authority may use a notional ‘daily rate’ as a starting point to assess costs. The current daily rate is \$4,500 for the first day of any investigation meeting, with a further \$3,500 for each additional day.

[8] Undue rigidity in applying the daily rates is avoided by upward or downward adjustments appropriate to the particular case. Those adjustments may take account of settlement offers made by either party, the financial means of a liable party to pay costs, the preparation required in particularly complex matters and whether conduct of any party unnecessarily increased the costs they incurred.

Assessment

[9] Ms Duong and Ms Dao were each put to the time and expense of needing to apply to the Authority to seek orders for payment of amounts they were entitled to receive in full and on time under the instalment plan set by their binding and enforceable

¹ Employment Relations Act 2000, Schedule 2 clause 15(1) and www.era.govt.nz/determinations/awarding-costs-remedies.

settlement agreements. Those amounts were finally paid, months late, without an Authority determination but after months of correspondence between their representative, Ms Tran and the Authority as responses and payments were sought.

[10] In those circumstances Ms Duong and Ms Dao were entitled to a contribution to the costs of representation they had incurred in having compliance applications prepared and lodge and the subsequent correspondence with the Authority and Ms Tran on what proved to be ongoing delays in the instalments due for payment. The amount of \$400 apiece sought as costs was reasonable. They were also entitled to have Ms Tran reimburse them for the Authority filing fee paid to lodge their applications.

Orders

[11] Within 28 days of the date of this determination Ms Tran must pay Ms Duong \$400 as costs and \$71.55 to reimburse the expense of the Authority application fee.

[12] Within 28 days of the date of this determination Ms Tran must pay Ms Dao \$400 as costs and \$71.55 to reimburse the expense of the Authority application fee.

Robin Arthur
Member of the Employment Relations Authority

