

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2015] NZERA Auckland 163
5390184

BETWEEN

MOSESE FATUKALA
Applicant

A N D

GOODMAN FIELDER NEW
ZEALAND LIMITED
Respondent

Member of Authority: James Crichton

Representatives: No appearance for the Applicant
Elizabeth Coats and Susannah Maxfield, Counsel for the
Respondent

Submissions received: No submissions from the Applicant
28 April 2014 from the Respondent

Date of Determination: 10 June 2015

COSTS DETERMINATION OF THE AUTHORITY

Delay

[1] The completion of this costs determination has been unreasonably delayed due to an administrative failure in our Auckland office and I can only apologise to the parties for the failure to attend to the matter in a timely fashion.

The substantive determination

[2] I issued my substantive determination in this matter on 8 April 2014 as [2015] NZERA Auckland 136.

[3] In that substantive determination, I found exclusively for the respondent (Goodman Fielder) and reserved costs.

The claim for costs

[4] Goodman Fielder, as the successful applicant, seeks costs on the basis of the daily tariff approach typically used by the Authority in a costs setting environment. That figure is and remains \$3,500 per day.

[5] Goodman Fielder tells me that it has attempted to engage with Mr Fatukala's advocate seeking to settle costs before filing its application in the Authority. It appears that Mr Fatukala's advocate did not respond to the approach.

The response

[6] There has been no response whatever from Mr Fatukala or his advocate despite several attempts by the Authority's officers to get some engagement from them.

[7] It follows that the only material that I have before me to consider is the submission of Goodman Fielder.

Determination

[8] Goodman Fielder seeks an award of \$3,500 from Mr Fatukala as a contribution to the costs it reasonably incurred in defending this matter successfully. The Authority is advised that Goodman Fielder expended a little over \$15,500 in fees and I am satisfied that that amount is within the reasonable range that I would expect to be expended in a matter of this kind.

[9] Despite the magnitude of the fees incurred, Goodman Fielder quite properly only seeks an award of \$3,500 being the daily tariff that the Authority typically applies as a starting point in the costs fixing environment.

[10] There are no factors which would encourage me to consider either an uplift or a reduction in that amount. There is nothing before me from Mr Fatukala which would allow me to assess his ability to pay or indeed consider any other factors that may be in play.

[11] Accordingly, I am satisfied that the proper course of action is to direct that Mr Fatukala should pay to Goodman Fielder as a contribution to its legal costs the sum of \$3,500.

James Crichton
Member of the Employment Relations Authority