

[4] In the event the Authority decides costs should be determined, Mr Jones seeks an amount equivalent to the notional daily tariff for two days in the amount of \$8,000.00 plus the Authority filing fee with an uplift of \$1,200.00, on account of Mr Jones not being registered for GST.

Costs

[5] Costs are a matter of discretion. The discretion is to be exercised in accordance with principle and not arbitrarily. The main principle in the exercise of the discretion is that costs follow the event. If a party is successful, they will be entitled to an award of costs. Mr Jones was successful with his constructive dismissal personal grievance and is entitled to a consideration of costs.

[6] The starting point for costs based on the Authority's daily tariff is \$4,500.00 for the first day and \$3,500.00 for any following days. From that starting point the Authority can consider whether there are factors justifying an increase or decrease in costs.

Analysis

[7] The stay of execution ordered by the Court relates to the orders made by the Authority and it requires AIL to pay into Court the amounts ordered by the Authority to be paid to Mr Jones.² It does not operate as a stay in relation to consideration of costs in the Authority.

[8] It is usual for challenges to substantive determinations to be filed in the Employment Court before the Authority has decided costs. Once a costs determination is issued by the Authority, the party challenging the substantive determination can amend their statement of claim to include a challenge to the costs determination or either party can file a separate challenge to the costs determination.³

[9] The investigation meeting was held over two days. Mr Jones was the successful party and I consider an award in the amount equivalent to the daily tariff of \$8,000.00 to be appropriate in this case.

² [2024] NZEmpC 210, 2024 WL 4723356

³ See "Employment Court Practice Directions" <www.employmentcourt.govt.nz> at No 11.

[10] I decline to order an uplift for GST having regard to the purpose behind the notional daily tariff. I am satisfied that the costs incurred in this matter exceed the Authority's notional daily tariff given how the matter progressed in the Authority.

Summary of orders

[11] Allied Investments Limited is ordered to pay Peter Jones costs in the sum of \$8,000.00 and to reimburse the filing fee of \$71.55 within 28 days of this determination.

Sarah Kennedy-Martin
Member of the Employment Relations Authority