

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2023] NZERA 431
3170447

BETWEEN TIHEI KEREOPA-REREKURA
Applicant

AND CRUZ BAR LIMITED
Respondent

Member of Authority: Antoinette Baker

Representatives: Lawrence Anderson, advocate for Applicant
Bruce Williamson for Respondent

Submissions received: 24 July 2023 from the Applicant only

Determination: 9 August 2023

COSTS DETERMINATION OF THE AUTHORITY

[1] I issued a determination on 17 July 2023¹ finding the applicant Mr Kereopa-Rerekura was unjustifiably dismissed in his employment by the respondent, C.

[2] The parties were asked to resolve costs between themselves. Costs have not been resolved. Mr Kereopa-Rerekura has now applied for an award of costs. No submissions have been received from C in response within the timetable set by the Authority.

[3] A party should receive a reasonable contribution to costs incurred in achieving a successful result. Costs are discretionary, modest, and are not a mechanism to punish the other party. Some cases may require costs to lie where they fall.²

[4] The Authority uses a notional daily tariff adjusting this up or down as appropriate depending on the case. Such an adjustment may take into consideration a

¹ *Kereopa-Rerekura v Cruz Bar Limited* [2023] NZERA 376

² Employment Relations Act 2000, Schedule 2, clause 15 and *PBO Ltd v Da Cruz* [2005] 1 ERNZ 808, 819-820 and *Fagotti v Acme and Co Limited* [2015] NZEmpC 135 at 106-108.

liable party's means to pay costs, additional preparation required if a case is complex, and any conduct of a party that has unnecessarily increased costs.³

[5] The current tariff applied for a one-day Authority investigation meeting is \$4,500.00. This amount is considered a starting point for assessing a reasonable contribution to the costs incurred by a party preparing for and taking part in an investigation meeting.

[6] Mr Kereopa-Rerekura largely succeeded in his claims and was awarded remedies. He is entitled to a contribution towards his costs. I accept that the starting point is \$4,500.00 based on the Authority's tariff guidance for the first full day investigation meeting. The investigation meeting lasted three quarters of a day so that is \$3,375.00.

[7] Mr Kereopa-Rerekura submits there should be an additional quarter day at the tariff because submissions were in writing beyond the day allocated. I find this reasonable.

[8] Cruz Bar Limited is to pay Tihei Kereopa-Rerekura \$4,500.00 as a contribution to his costs together with the filing fee of \$71.56 within 28 days of the date of this determination.

Antoinette Baker
Member of the Employment Relations Authority

³ As above.