

[4] As already noted application of the tariff approach would, in this instance, see an award in the order of \$1,500. Mr Ngapera, however, seeks more and asks I consider a sum between \$2,250 and \$4,000 plus disbursements of \$212.56.

[5] While Mr Ngapera accepts *issues in this matter have generally speaking been uncomplicated* it was *time consuming and complicated ... in terms of the difficulty in dealing with the Respondent*.³

[6] In particular it is said an uplift in the tariff is warranted as the Respondent's conduct was unreasonable and it rejected repeated attempts to resolve the matter in a pragmatic way. In this regard there is reference to repeated offers to a level of \$10,000 and that this amount was subsequently exceeded by the award made via the substantive determination.

[7] Reference is then made to the fact the amount awarded has not yet been paid absent any challenge though it should be noted one has now been filed.

[8] The respondent's position is unknown as notwithstanding advice a response would be furnished that has not occurred.⁴

[9] As already said the Authority generally applies a tariff approach and while it may be departed from it is for the party seeking such a departure to convince me it is warranted. I conclude that in this instance the Applicant has failed to do so.

[10] While there is an assertion the matter was time consuming largely as a result of the respondent rejecting reasonable offers the claim has not been supported with any evidence or documentation. There is defiantly no evidence of a calderbank, or even a suggestion one exists, which would be the normal avenue used to increase a costs award in such circumstances as it is generally expected the parties will attempt to resolve the issues before engaging in litigation and offers will have passed between them.

[11] Similarly I note there is no record as to what the disbursements are. This is, I conclude, an issue as advocate travel was involved and if that forms par of the claim it would not normally be recoverable. Therefore, and as the tariff is generally deemed to cover all costs and I have no knowledge as to how reasonable the disbursements are, these can not be taken into account.

³ Applicant's submission at [3]

⁴ Email dated 11 August 2021

[12] Clearly there is nothing to convince me to lower the tariff given the lack of response from the Respondent.

Conclusion and Orders

[13] For these reasons I consider it appropriate I remain with the initial indication and apply the tariff. As a result I order the respondent, Taranaki Engineering Proud Limited, pay Mr Ngapera \$1,500.00 (fifteen hundred dollars) as a contribution toward the costs he incurred pursuing his claim.

Michael Loftus
Member of the Employment Relations Authority