

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2022] NZERA 641
3151225

BETWEEN	SIMONA PASZTOROVA Applicant
AND	PETER MORLEY SUTHERLAND Respondent

Member of Authority:	Geoff O’Sullivan
Representatives:	Ronald Jones, advocate for the Applicant Peter Morley Sutherland, in person
Investigation Meeting:	On the papers
Submissions Received:	Up to and including 24 November 2022
Date of Determination:	2 December 2022

COSTS DETERMINATION OF THE AUTHORITY

Background

[1] On 4 October 2022 I issued a determination that Ms Pasztorova had been unjustifiably dismissed and ordered the payment of lost wages and compensation in terms of s 123(1)(c)(i) of the Employment Relations Act 2000. Costs were reserved and the parties were encouraged to resolve this matter between themselves. They have been unable to do this and Ms Pasztorova as the successful party now seeks a contribution to her costs.

[2] The discretion to award costs, whilst broad, is to be exercised in a principled way. The primary principle is that costs follow the event. The Authority has power to award any party to pay to any other party such costs and expenses as the Authority thinks reasonable.¹

[3] Costs are awarded in the Authority on well-established principles generally starting from the daily tariff, currently \$4,500, with upward and downward adjustments made if appropriate to the circumstances of the case.²

The parties' submissions

[4] Ms Pasztorova claims a total of \$5,072.16. This is made up as follows:

- (a) Daily tariff - \$4,500.00
- (b) Disbursements:
 - (i) airfares Auckland-Nelson-Auckland \$269.60
 - (ii) accommodation Nelson \$231.00
 - (iii) lodgement fee \$71.56

[5] Mr Sutherland has replied, in essence leaving the matter to the Authority to decide.

[6] As a matter of principle, Ms Pasztorova is entitled to choose any representative she wishes. In this case, she chose Mr Jones who is an Auckland based advocate. She could of course, have chosen a representative based in Nelson. Whilst as said above, Ms Pasztorova is entitled to whatever representative she wishes, any extra costs in doing so cannot be placed at the feet of Mr Sutherland. In that regard, it would not be appropriate to award costs including airfares and accommodation. The lodgement fee of \$71.56 is a separate matter and is claimable.

Conclusion and orders

[7] There is no basis on which the Authority should depart from the notional daily tariff in this case. The daily tariff is \$4,500, however the investigation meeting occupied approximately two hours. On a pro rata basis, I order Mr Sutherland to pay Ms Pasztorova costs in the sum

¹ Employment Relations Act 2000, schedule 2, clause 15.

² For further information about the factors considered in assessing costs, see: www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1

of \$1,200, together with a filing fee of \$71.56 as a contribution towards the costs she incurred in pursuing her claims.

Geoff O'Sullivan
Member of the Employment Relations Authority