

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

**I TE RATONGA AHUMANA TAIMAHI  
TE WHANGANUI-Ā-TARA ROHE**

[2022] NZERA 22  
3131037

BETWEEN

JACOB PIETRAS  
Applicant

AND

TANYA VEGAR  
(aka TANYA STRUCK)  
Respondent

Member of Authority: Michael Loftus

Representatives: Joshua Pietras, counsel for the Applicant  
No appearance for the Respondent

Submissions received: On the papers with information up to and including  
28 January 2022

Date of Determination: 31 January 2022

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**COSTS DETERMINATION OF THE AUTHORITY**

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[1] On 1 December 2021 I issued a determination in which I concluded Mr Pietras was due unpaid wages and holiday pay with the circumstances being such Mr Pietras convinced me it was appropriate Ms Vegar be penalised.<sup>1</sup>

[2] Costs were reserved and as the successful party Mr Peitras now seeks a contribution toward those he incurred pursuing his claims.

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<sup>1</sup> [2021] NZERA 539

[3] Normally the Authority will use a daily tariff approach when addressing a costs claim, with the current starting point being \$4,500 for the first day and it is application of that approach upon which Mr Pietras relies.<sup>2</sup>

[4] While the claims were determined on the papers Mr Pietras submits it is appropriate he be reimbursed on the basis there had been an investigation that took half a day (\$2,250). In doing so he adds notwithstanding that and in addition to the normal steps such as preparing a statement of problem and briefs of evidence additional and unnecessary steps were required by virtue of Ms Vegar's failure to participate in the process. These included steps such as making inquiries of third parties and the procurement and use of document servers for which he seeks reimbursement as a disbursement. He also seeks, as a further disbursement, refund of the Authority's filing fee.

[5] Mr Pietras's submission is one I accept. Had an investigation meeting proceeded half a day would, in my view, be a reasonable assessment of how long it would have taken. The only reason a meeting not proceed and was replaced by a consideration on the papers was Ms Vegar's failure to participate.<sup>3</sup>

[6] Notwithstanding that Mr Peitras was, at least initially, required to take various steps on the premise a meeting would occur. Once it became apparent that would not happen, and as submitted, he was then forced to take additional steps as a result of Ms Vegar's lack of response. Some of those steps incurred additional, and arguably unnecessary, expense such as the cost of the document server. That cost should therefore be reimbursed and the fact of success means the filing fee is a given.

[7] Once again Ms Vegar has failed to respond which means there is no argument to counter Mr Peitras's submission which, as already said, has merit. I shall therefore order costs as sought, with the total being \$2,534.31 (costs of \$2,250 plus disbursements of \$284.31).

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<sup>2</sup> *PBO Ltd (formerly Rush Security Ltd) v Da Cruz* [2005] ERNZ 808 and *Fagotti v Acme & Co Ltd* [2015] NZEmpC 135

<sup>3</sup> Above n 1 at [6]

**Conclusion and Orders**

[8] For the reasons above I order the respondent, Tanya Vegar (aka Struck), pay to Mr Pietras the sum of \$2,534.31 (two thousand, five hundred and thirty four dollars and thirty one cents) as a contribution toward the costs Mr Pietras incurred.

[9] Payment is to made no later than 4.00pm Monday 21 February 2022.

**Michael Loftus**  
**Member of the Employment Relations Authority**