

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

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

[2025] NZERA 492  
3319460

BETWEEN NILESH PRASAD  
Applicant

AND WARRIOR NZ LIMITED  
Respondent

Member of Authority: Natasha Szeto

Representatives: Stephen Elliot, advocate for the Applicant  
No appearance by or for the Respondent

Investigation Meeting: 20 May 2025 in Napier

Submissions and further information received: 2 June 2025 from Applicant

Date of determination: 14 August 2025

---

**DETERMINATION OF THE AUTHORITY**

---

**The Employment Relationship Problem**

[1] Nilesh Prasad was employed by Warrior NZ Limited (WNL) as an apprentice builder for approximately 10 months in 2021, until he resigned over proposed changes to his employment.

[2] Mr Prasad says he was disadvantaged by WNL's actions which also eventually forced him to leave. He says he was unjustifiably constructively dismissed. Mr Prasad also says WNL did not pay him properly after he had a workplace accident and it unlawfully deducted money from his final pay. Mr Prasad wants this money to be repaid.

[3] WNL has had very limited engagement in this matter. It did not lodge a statement in reply and did not attend the investigation meeting.

## **The Authority's Investigation**

[4] It is necessary to set out the background to the Authority's investigation in some detail given the very limited engagement by WNL in this matter.

[5] The sole director of WNL is John Gemmell. The two shareholdings of the company are held by Mr Gemmell and his wife Rosemary Gemmell. Authority records show the statement of problem was couriered to WNL's registered office on 13 September 2024 and signed for by Rose Gemmell. WNL did not lodge and serve a statement in reply.

[6] On 5 October 2024, Mrs Gemmell sent an email to the Authority on behalf of Mr Gemmell and WNL. She says the company's bank accounts are closed and the company has not traded for two to three years. She also says the accountant would close the company when the Inland Revenue Department tax was completed. Mrs Gemmell also told the Authority that Mr Gemmell is not well and will not engage in any further discussions. On 4 November 2024, WNL sent a further email stating again the company has not traded for some years and is closed.

[7] On 3 December 2024 I convened a case management conference (CMC). Mr Prasad's representative attended the CMC, but there was no appearance by or for WNL despite the Authority's attempts at contact. I was satisfied that Mr Gemmell as the director of WNL was notified of the CMC and it proceeded in his absence. I directed the parties to attend mediation, which did not occur. An investigation meeting was set down for 20 May 2025 in Napier. I set timetabling directions for the exchange of statements and information.

[8] Prior to the investigation meeting, the Authority's Notice of Investigation Meeting, Notice of Directions, statement of problem and Mr Prasad's witness statement were sent to WNL's registered office at my direction. I am satisfied these documents were served on WNL at its registered office and address for service on 1 May 2025. Included in the Notice of Investigation Meeting that WNL received was advice that if it did not attend the investigation meeting, the Authority may, without hearing evidence from it, issue a determination in favour of Mr Prasad.

[9] On 20 May 2025, I held an investigation meeting in Napier with Mr Prasad, his wife Stacey Prasad, and Mr Prasad's representative attending in person. There was no appearance by, or for, WNL.

[10] WNL was at that time, and remains, registered on the Companies Office register. WNL had been given multiple opportunities to participate in the Authority's proceedings. The Authority has the power to proceed with a matter under clause 12 of Schedule 2 of the Employment Relations Act 2000 (the Act), if any party, without good cause, fails to attend, and may act fully in the matter before it, as if that party had duly attended or been represented.

[11] No reason was provided by WNL for its non-attendance at the investigation meeting on 20 May 2025 and the investigation meeting proceeded in its absence. Mr Prasad had provided a written statement in advance and Mrs Prasad gave oral evidence at the investigation meeting. Both witnesses answered questions under oath or affirmation.

[12] After the Authority's investigation meeting Mr Prasad provided a screenshot of his final payslip from his employment with WNL, as well as his Inland Revenue Department record of earnings for the period 1 April 2020 to 31 March 2022.

[13] WNL sent an email to the Authority on 7 August 2025 in response to a question about Mr Prasad's costs. The email was received months after the investigation meeting and the time for filing statements and information had passed. The content of that email is not relevant to the issues to be determined.

[14] As permitted by s 174E of the Act, this determination has stated findings of fact and law, expressed conclusions on issues necessary to dispose of the matter and specified the orders made. It has not recorded all the evidence and submissions received, but all information submitted to the Authority has been considered.

### **Issues**

[15] The issues for the Authority to resolve are:

- (i) Whether Mr Prasad was unjustifiably (constructively) dismissed from his employment, including whether WNL failed to provide Mr Prasad with a written employment agreement and to retain a signed copy.
- (ii) Whether Mr Prasad was unjustifiably disadvantaged in his employment.
- (iii) If Mr Prasad is found to have a valid personal grievance, whether he should be awarded compensation under s 123(1)(c)(i) of the Act (subject to contribution).

- (iv) If Mr Prasad is found to have a valid personal grievance, whether he should be awarded reimbursement of lost wages under s 123(1)(c)(ii) of the Act (subject to mitigation and contribution).
- (v) Whether Mr Prasad is owed wage arrears for a period when he was on ACC, but was forced to use his annual holiday entitlements and whether WNL should be ordered to repay Mr Prasad for one week's annual holiday entitlements.
- (vi) Whether WNL unlawfully deducted \$517.22 from Mr Prasad's final pay and should be ordered to repay this to Mr Prasad.

### **Relevant background**

[16] Mr Prasad met Mr Gemmell by chance in January 2021 when they struck up a conversation about their pets. Mr Gemmell offered Mr Prasad a job as a mechanic repairing Mr Gemmell's vehicles. When that work dried up, Mr Gemmell suggested Mr Prasad start working for his company WNL as an apprentice builder. Mr Gemmell asked Mr Prasad to sign some paperwork but he did not give Mr Prasad copies of what he signed and Mr Prasad now cannot recall what the paperwork related to.

[17] Mr Prasad was one of a number of apprentice builders who worked for WNL. Mr Prasad worked Monday to Saturday and sometimes on Sundays. The hours were 7:00 am until 4:30 or 5:00 pm, with a guarantee of 40 hours work per week. Mr Prasad was paid \$21.00 per hour. WNL subcontracted its builders to a big construction firm or meat-works operation in Napier and Mr Prasad mostly worked at one of those two sites. If there was no building work available, Mr Gemmell asked the building apprentices to carry out labouring work on his farm. Mr Prasad was paid weekly in arrears. WNL gave Mr Prasad a basic toolkit when he started, which was to be paid off by deductions made from his pay.

[18] At the beginning of his employment, Mr Prasad liked Mr Gemmell and he enjoyed the work. From early on however, Mr Prasad had issues with the lack of supervision. Mr Prasad was sometimes left to work on his own and Mr Gemmell told him to "get on with it" even though Mr Prasad was an apprentice without any prior building experience and Mr Gemmell knew this. There were occasions where Mr Gemmell told Mr Prasad to do work that he simply did not know how to do and he did not have anyone to ask. Mr Prasad says even though he understood Mr Gemmell was supposed to be supervising him as an apprentice builder, Mr Gemmell would quite often

only be at the worksite for a short while before leaving. On one such occasion when Mr Gemmell told Mr Prasad to cut a hole out of a ceiling and he did not know how, Mr Prasad just did not do it. Mr Prasad says Mr Gemmell was very angry with him when he returned to the site to find the work had not been started.

[19] Mr Prasad says when he tried to refuse to do work that he thought was unsafe, Mr Gemmell told him “just do it”. After a while, Mr Prasad says he learned the job from others and figured out some tasks on his own. Mr Prasad felt more supported at the large sites because there was always someone to ask, but it was not Mr Gemmell as he was simply not there. Mr Prasad also says Mr Gemmell told him to follow everyone else’s lead and if anyone questioned his ability to carry out building work, Mr Prasad was to “stall them” until Mr Gemmell got there.

[20] After several months working for WNL, Mr Prasad says Mr Gemmell pressured him into signing an employment agreement, which he did. He never received a copy of the agreement.

#### *The incident*

[21] On 1 September 2021, Mr Prasad was injured at work. He was stepping off a ladder with his toolbelt on and tools in his hand. He was unbalanced, missed a step and sprained his ankle, falling over into a piece of gib. The principal contractor asked Mr Prasad to report the incident, but Mr Gemmell discouraged this by telling Mr Prasad that if he did not come to work, he would not get paid.

[22] Mr Prasad returned to work the next day, but his ankle was so painful he felt in danger of passing out and he had to leave. On 8 September, Mr Prasad went to see a doctor who declared him medically unfit for work from the date of his accident on 1 September and said he would be fit to return to normal work on 10 September. No Accident Compensation Corporation (ACC) claim was made by or on behalf of Mr Prasad and he says WNL paid him annual leave in advance for approximately one week when he should have been on an ACC payment.

[23] Once Mr Prasad returned to work, he said Mr Gemmell was very negative towards him. Around this time Mr Prasad also started to hear about WNL’s “dodgy behaviour” from the principal contractor including an allegation that the principal contractor was paying WNL travel allowances for its apprentices which were not passed on to the workers.

[24] Mr Prasad also says Mr Gemmell employed “bullying tactics” directing Mr Prasad to do this and do that and sending aggressive text messages to Mr Prasad telling him to “come to the farm” which Mr Prasad interpreted as a threat that Mr Gemmell would beat him up. Mr Prasad described these as negative and abusive stand-over tactics.

#### *Mr Prasad’s resignation*

[25] On or around 28 September 2021, Mr Gemmell sent Mr Prasad a text saying that WNL required Mr Prasad to sign a new employment agreement that would give him an 11 percent increase in his wages, but remove his entitlements to sick leave and annual leave. In response, Mr Prasad said he wanted a copy of his original agreement. WNL refused to provide one. Mr Prasad was suspicious of WNL’s motives around the new employment agreement. WNL said Mr Prasad had until 4:30 pm that day to sign. Mr Prasad’s response was to resign with two weeks’ notice.

[26] Mr Prasad says he worked out his two weeks’ notice, but was only paid for one. WNL issued Mr Prasad with a tax invoice for \$517.22 on 18 October 2021 for failure to work out his notice. WNL also referred Mr Prasad to a debt recovery agency to recover the cost of tools Mr Prasad says he repaid months earlier.

[27] On 28 October 2021 Mr Prasad raised a personal grievance with WNL by sending a letter setting out the reasons he believed he had been unjustifiably disadvantaged and constructively dismissed.

[28] On 9 September 2024 Mr Prasad lodged a statement of problem with the Authority, which was within the three year period to commence an action in the Authority in relation to a personal grievance.<sup>1</sup>

### **Was Mr Prasad unjustifiably dismissed?**

#### ***What is the law?***

[29] In some circumstances a resignation may amount to a dismissal. The Court of Appeal in *Wellington, Taranaki and Marlborough Clerical IUOW v Greenwich* stated:<sup>2</sup>

There is no substantial difference between the case of an employer who, intending to terminate the employment relationship, dismisses the

---

<sup>1</sup> Section 114(6) of the Act.

<sup>2</sup> *Wellington, Taranaki and Marlborough Clerical IUOW v Greenwich* [1983] ACJ 965.

employee and the case of the employer who, by conduct, compels the employee to leave the employment.

[30] The Court of Appeal listed three situations in *Auckland Shop Employees Union v Woolworths (New Zealand) Limited*<sup>3</sup> where a constructive dismissal might occur.

These situations are not exhaustive:

- (i) Where the employee is given a choice of resignation or dismissal;
- (ii) Where the employer has followed a course of conduct with the deliberate and dominant purpose of coercing an employee to resign; and
- (iii) Where a breach of duty by the employer leads a worker to resign.

[31] The conduct complained of must amount to a repudiation of the contract rather than just be unreasonable.

[32] The Court of Appeal<sup>4</sup> has stated the broad legal approach starts with the question of whether the resignation has been caused by a breach of duty on the part of the employer by looking at all the circumstances of the resignation. If so, the next question is whether the breach of duty by the employer was of sufficient seriousness to make it reasonably foreseeable by the employer that the employee would not be prepared to work under those conditions. The court has emphasised that the focus of such claims is on the employee's motivation for their decision to leave, and whether that motivation arises from a breach of the employer's duty, or some other factor.<sup>5</sup>

[33] In determining whether a dismissal was unjustifiable, the Authority must apply the test of justification in s 103A of the Act and is required to consider on an objective basis whether WNL's actions and how it acted were what a fair and reasonable employer could have done in all the circumstances at the time the dismissal occurred.

### ***Analysis***

[34] Mr Prasad claims constructive dismissal on the third ground under *Woolworths*, on the basis that WNL breached a duty to him and should have been able to reasonably foresee that rather than putting up with breaches, he would resign.

---

<sup>3</sup> *Auckland Shop Employees Union v Woolworths (NZ) Limited* [1985] 2 NZLR 372 (CA) at 374.

<sup>4</sup> *Auckland Electric Power Board v Auckland Provincial District Local Authorities Officers IUOW Inc* [1994] 2 NZLR 415 (CA) at 419.

<sup>5</sup> See for example, *Commissioner of Police v Hawkins* [2009] NZCA 209.

[35] Mr Prasad says “a whole string of things” led to his resignation. Based on the evidence before the Authority, I find Mr Prasad has established that WNL’s actions caused him to resign, the actions were breaches of WNL’s duties to him and its actions were of sufficient seriousness to make it reasonably foreseeable that Mr Prasad would resign, for the following reasons.

[36] Firstly, WNL’s treatment of Mr Prasad amounted to a failure to provide him with a safe work environment. Mr Prasad said he was exposed to health and safety risks and was genuinely “freaked out” about some of the tasks he was asked to carry out such as pushing wood through large sawblades with a stick. Based on Mr Prasad’s evidence, Mr Gemmell was rarely on site when Mr Prasad was working and there was insufficient supervision and oversight of his work.

[37] Secondly, WNL’s response to Mr Prasad’s workplace injury was not consistent with the actions of a fair and reasonable employer. WNL told Mr Prasad he would not be paid if he was not working, effectively pressuring Mr Prasad to return to work when he was medically not fit to do so. Mr Prasad could have expected WNL to make an ACC claim on his behalf for his workplace injury but instead, WNL discouraged Mr Prasad from reporting the incident and paid Mr Prasad annual leave taken in advance without his agreement.

[38] Thirdly, WNL failed to provide Mr Prasad with a copy of his written employment agreement when he requested it, which is a clear breach of its obligation to do so under the Act.<sup>6</sup> As a consequence, Mr Prasad was unable to provide copies of his employment agreements to the Authority.

[39] Fourthly and most significantly, WNL repudiated Mr Prasad’s employment agreement by offering Mr Prasad a new employment agreement on a “take it or leave it” basis. I accept Mr Prasad’s evidence that the new employment agreement in fact contained less favourable terms and was inconsistent with employment law in purporting to have him “opt out” of minimum entitlements to sick leave and holiday pay in exchange for a higher salary.

---

<sup>6</sup> Section 64(3) of the Act.

[40] I conclude WNL's actions above also amount to breaches of the duty of good faith<sup>7</sup> because WNL was not active and constructive in maintaining a productive employment relationship.

### ***Conclusion***

[41] Based on the evidence before the Authority, I find WNL breached its employment obligations under the Act and its duty of good faith. Its actions were not the actions of a fair and reasonable employer and its conduct was repudiatory of the employment agreement.

[42] WNL's conduct motivated Mr Prasad to resign. The offer of a new employment agreement, which was not a genuine offer and contained worse terms, was the last straw for Mr Prasad. The breaches outlined above were of sufficient seriousness to make it reasonably foreseeable by WNL that Mr Prasad would not be prepared to work under those conditions. I find Mr Prasad was unjustifiably constructively dismissed.

### **Was Mr Prasad unjustifiably disadvantaged in his employment?**

[43] For his disadvantage claim to succeed, Mr Prasad must establish that one or more conditions of his employment was affected to his disadvantage by an unjustified action by WNL.<sup>8</sup> This means I need to determine whether Mr Prasad suffered a disadvantage in his employment, and – if so – whether this was caused by an action by WNL and whether that action was unjustified.

[44] WNL's actions are assessed in light of the test under s 103A of the Act and in particular, whether its actions and how it acted, were what a fair and reasonable employer could have done in all the circumstances at the time the action occurred.

[45] The actions that Mr Prasad relies on for his disadvantage claim are also the context for his unjustified dismissal claim. I do not consider in the circumstances that a separate disadvantage claim is substantiated on the evidence. Even if I had found otherwise, no separate remedy would be available because the personal grievance claims arise from the same causes and rely on the same underlying facts. Mr Prasad's separate unjustifiable disadvantage claim does not succeed.

---

<sup>7</sup> Section 4(1A) of the Act.

<sup>8</sup> *ANZ National Bank Ltd v Doidge* [2005] ERNZ 518 (EmpC).

## **Remedies**

[46] I have found Mr Prasad was unjustifiably dismissed from his employment and he is therefore entitled to an assessment of remedies.

[47] Mr Prasad seeks:

- (a) Compensation under s 123(1)(c) of the Act for humiliation, loss of confidence, loss of dignity and injury to his feelings.
- (b) Reimbursement of lost wages under s 123 (1)(b).

[48] Mr Prasad and Mrs Prasad gave evidence of impact. The job with WNL was Mr Prasad's first legitimate employment and he felt pushed back and "screwed over" and like he had been taken in. Mr Prasad questioned why he would want to be employed when people can do this to you.

[49] Mrs Prasad says Mr Prasad was in a very dark place mentally for months. He spent a lot of time in bed because he had no reason to get up. Mrs Prasad reached out to a principal contractor and arranged for Mr Prasad to go back to doing some building work. While his original claim was for three months' lost wages, Mr Prasad confirmed at the investigation meeting that he was only out of work for approximately two months. He has now had steady employment with a new employer for just over a year, but it took him a number of years to get back into consistent work. The overall impacts of the ending of his employment with WNL have been longer-lasting for Mr Prasad than the two months he was out of paid employment.

[50] I have considered the general range of compensation awards in other cases. Based on the evidence of emotional impact on Mr Prasad, and standing back to objectively assess the impact as best I can, I consider an appropriate award of compensation under s 123(1)(c)(i) of the Act is \$15,000.00 subject to contribution.

### *Lost wages*

[51] Under s 123(1)(b) of the Act, the Authority is able to order that the employee be reimbursed a sum equal to the whole or part of any wages or other money lost by the employee as a result of the grievance. Section 128 of the Act provides that the Authority must order the employer to pay lost remuneration or three months' ordinary time remuneration where the Authority determines an employee has a personal grievance and has lost remuneration as a result of the grievance, although there is a discretionary power in s 128(3) of the Act to award a greater sum.

[52] When assessing the appropriate award for lost remuneration, the applicable principles are that full financial losses set the upper limit on an award of compensation, and there is no automatic entitlement to full compensation. Moderation is required. Precision is difficult and awards of compensation “will inevitably involve a broad brush approach”.<sup>9</sup>

[53] Mr Prasad gave evidence that he was out of paid employment for two months. His expected income for this time from WNL would have been \$6,720.00 (gross).<sup>10</sup> Mr Prasad received income of \$1,441.91 (gross) from a building company in the month ending 31 October 2021.<sup>11</sup> I consider it appropriate to reduce Mr Prasad’s projected lost remuneration by this amount to reflect his actual lost remuneration in the relevant period. This amounts to \$5,278.09 (gross) which is a modest and appropriate award. I order that amount to be paid, subject to contribution.

### ***Contribution***

[54] In deciding the nature and extent of remedies for any personal grievance, I must consider the extent to which Mr Prasad may have acted in a way that contributed to the situation that gave rise to his grievance.<sup>12</sup> To reduce remedies for contribution, I must be satisfied that Mr Prasad’s actions contributed to the situation and that his actions require a reduction in remedies.<sup>13</sup> The primary considerations are causation and proportionality.

[55] There is no evidence that Mr Prasad contributed to the situation giving rise to his unjustified dismissal grievance. I decline to reduce remedies.

### **Is Mr Prasad owed annual holiday pay?**

[56] Mr Prasad claims one week’s pay while he was off work due to his injury. Mr Prasad was certified medically unfit to work for 9 days. He says WNL paid him annual leave in advance, instead of paying him ACC compensation or sick leave. Mr Prasad also asks to be reimbursed for the unauthorised deduction of \$517.22 from his final pay.

---

<sup>9</sup> *Sam’s Fukuyama Food Services Ltd v Zhang* [2011] NZCA 608, para 36.

<sup>10</sup> Calculated at \$21.00 per hour for 40 hours per week for eight weeks.

<sup>11</sup> Inland Revenue “Confirmation of Earnings” record.

<sup>12</sup> Section 124 of the Act.

<sup>13</sup> *Keighran v Kensington Tavern Limited* [2024] NZEmpC 28.

*What was Mr Prasad entitled to?*

[57] An employee becomes entitled to sick leave after they have completed six months' current continuous employment.<sup>14</sup> An employee becomes entitled to not less than four weeks' paid annual holidays after 12 months of continuous employment.<sup>15</sup> However, an employer may allow an employee to take annual holidays in advance.<sup>16</sup>

[58] Mr Prasad had worked for WNL for over seven months by the time of his accident on 1 September 2021. As a consequence, he was entitled to sick leave but was not entitled to annual holidays. WNL had a duty to pay Mr Prasad 80 percent of his earnings for the first week he was off work with a workplace injury.<sup>17</sup>

[59] Mr Prasad does not have any records to confirm what WNL paid him at the time of his accident. Mr Prasad says WNL wanted him to "stay silent" about how the injury happened and instead of paying him ACC compensation, WNL paid him annual leave in advance, despite the fact that he had not requested it.

*Conclusion*

[60] I am satisfied that the grounds of s 132 of the Act are met, such that I can accept Mr Prasad's claims he was paid annual leave in advance for one week's work in the absence of proof to the contrary from WNL.<sup>18</sup> As a consequence of being incorrectly paid holiday pay at the time of his accident, Mr Prasad would have been underpaid annual holiday pay at the end of his employment because his annual holiday payment would have been reduced by the amount he had already been paid for annual holidays taken in advance.<sup>19</sup> He is owed annual holiday pay amounting to \$840.00 (gross)<sup>20</sup> and I order this to be paid.

### **Should Mr Prasad be repaid for an unlawful deduction?**

[61] It is unlawful to make deductions from an employee's wages without their written consent.<sup>21</sup> Mr Prasad provided a tax invoice which suggests a deduction was made from his final pay because of the words "processed in payroll week ending 17/10/2021". The stated reason is "did not give proper notice". Mr Prasad did not

---

<sup>14</sup> Section 63 of the Holidays Act 2003.

<sup>15</sup> Section 16 of the Holidays Act 2003.

<sup>16</sup> Section 20 of the Holidays Act 2003.

<sup>17</sup> Sections 97 to 99 of the Accident Compensation Act 2001.

<sup>18</sup> Section 132 of the Act.

<sup>19</sup> Section 23 of the Holidays Act 2003.

<sup>20</sup> Calculated at \$21.00 per hour for 40 hours per week.

<sup>21</sup> Sections 4 and 5 of the Wages Protection Act 1983.

consent to having the amount of \$517.22 deducted from his final wages. Based on the records provided to the Authority, this amount was deducted. I order WNL to pay Mr Prasad the amount of \$517.22 (net).

### **Orders**

[62] I order that within 28 days of the date of this determination Warrior NZ Limited is to pay Nilesh Prasad:

- (i) Compensation for humiliation, loss of dignity and injury to feelings under s 123(1)(c)(i) of the Act in the amount of \$15,000.00.
- (ii) Reimbursement of lost wages under s 123(1)(b) and s 128 of the Act in the amount of \$5,278.09 (gross)
- (iii) Annual holiday pay of \$840.00 (gross).
- (iv) Payment for unlawful deduction of \$517.22 (net).

### **Costs**

[63] Costs are reserved. The parties are encouraged to resolve any issue of costs between themselves.

[64] If the parties are unable to resolve costs, and an Authority determination on costs is needed, Mr Prasad may lodge, and then should serve, a memorandum on costs within 28 days of the date of this determination. From the date of service of that memorandum Warrior NZ Limited will then have 14 days to lodge any reply memorandum. On request by either party, an extension of time for the parties to continue to negotiate costs between themselves may be granted.

[65] The parties can anticipate the Authority will determine costs, if asked to do so, on its usual “daily tariff” basis unless circumstances or factors, require an adjustment upwards or downwards.<sup>22</sup>

Natasha Szeto  
Member of the Employment Relations Authority

---

<sup>22</sup> For further information about the factors considered in assessing costs see: [www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1](http://www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1)