



Employment Court of New Zealand

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Randle v The Warehouse Limited [2019] NZEmpC 88 (30 July 2019)

Last Updated: 3 August 2019

IN THE EMPLOYMENT COURT OF NEW ZEALAND WELLINGTON

I TE KŌTI TAKE MAHI O AOTEAROA TE WHANGANUI-A-TARA

[\[2019\] NZEmpC 88](#)

EMPC 278/2018

IN THE MATTER OF	a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER OF	an application for costs
BETWEEN	KIM RANDLE Plaintiff
AND	THE WAREHOUSE LIMITED Defendant

Hearing: On the papers

Appearances: G Bennett, advocate for plaintiff
P Swarbrick and M Bowen, counsel for
defendant

Judgment: 30 July 2019

COSTS JUDGMENT OF JUDGE J C HOLDEN

[1] The plaintiff, Ms Randle, was unsuccessful in her challenge in the Court. The defendant, The Warehouse Ltd, is therefore entitled to an order of costs. In the substantive judgment, the Court held that costs were to be calculated by applying Category 2A of the Court's Guideline Scale for costs.¹

¹ *Randle v The Warehouse Ltd* [\[2019\] NZEmpC 68](#) at [\[41\]](#).

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[2] The Warehouse Ltd calculates scale costs to be \$8,697, comprising:

Step	Proceeding	Allocated Days (Band B)
2	Commencement of defence to challenge	0.5
11	Preparation for first directions conference	0.2
13	Appearance at first or subsequent directions conference	0.2
36	Preparation of affidavit evidence	1
39	Preparation for hearing	1.5
40	Appearance at hearing	0.5
Total		3.9
At \$2,230 per day =		\$8,697

[3] The Warehouse Ltd confirms that the scale costs represent approximately two thirds of The Warehouse Ltd's actual costs.

No response from Ms Randle

[4] Following receipt of the substantive judgment, The Warehouse Ltd wrote to Mr Bennett, advocate for Ms Randle, in an effort to agree costs. Ms Swarbrick, counsel for The Warehouse Ltd, advises that no response was received from Mr Bennett. Therefore, The Warehouse Ltd filed and served its application.

[5] Mr Bennett failed to file any submissions in response to the application within the time allowed. The Court registry then approached him and asked him to advise urgently whether Ms Randle wished to file submissions. Mr Bennett advised that he would be filing submissions the following day, 18 July 2019. No submissions were received and no application for an extension of time to file submissions has been filed. Accordingly, Ms Randle's view on the application is unknown.

Costs allowed

[6] The Warehouse Ltd's calculation of scale costs is accepted. Those costs are reasonable for the proceeding.

[7] The Warehouse Ltd also seeks costs of \$500 for making the application. I agree that, having been put to the effort of applying for costs because of a lack of response from Ms Randle, The Warehouse Ltd is entitled to an award for the application. I allow \$446, representing 0.2 days at Band B.

[8] The outcome then is that Ms Randle is to pay The Warehouse Ltd \$9,143 for costs. That payment is to be made within 14 days of the date of this judgment.

J C Holden Judge

Judgment signed at 10.30 am on 30 July 2019

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