

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI
TĀMAKI MAKĀURAU ROHE**

[2024] NZERA 28
3164301

BETWEEN AIDAN SAMUELSON
 Applicant

AND CODEY HALSE
 Respondent

Member of Authority: Alex Leulu

Representatives: Alex Kersjes, advocate for the Applicant
 No appearance by the Respondent

Submissions and further Submissions and further information on 1 December
information received: 2023.
 No information received from Respondent

Determination: 19 January 2024

COSTS DETERMINATION OF THE AUTHORITY

[1] On 17 November 2023 the Authority found Aidan Samuelson was unjustifiably dismissed by Codey Halse.¹ Mr Halse was ordered to pay remedies to Mr Samuelson and penalties were also imposed against Mr Halse for breaches of the Wages Protection Act 1983 and the Employment Relations Act 2000.

[2] The Authority also reserved its decision on costs. On 1 December 2023 Mr Samuelson asked the Authority to make a further determination for an award of costs against Mr Halse.

Costs principles

[3] Clause 15 of Schedule 2 of the Employment Relations Act 2000 (the Act) gives the Authority discretion to order any party to a matter to pay to another party such costs and expenses as the Authority thinks reasonable.

¹ Samuelson v Halse [2023] NZERA 682.

[4] The unsuccessful party will usually have to contribute to the costs of the successful party, as well as meeting their own costs. A daily tariff applied by the Authority sets a starting point from which relevant factors and principles may guide an upward or downward adjustment of the amount of costs awarded. The current tariff for costs is \$4,500 for the first day of any matter.

[5] Relevant principles governing costs in the Authority include consideration of whether the conduct of the parties increased costs unnecessarily, warranting an adjustment up or down, without compromising the Authority's otherwise modest approach to costs.²

[6] Costs should not be used to punish a party or express disapproval of an unsuccessful party's conduct.

Should costs be awarded?

[7] Mr Samuelson's submission seeking an award of costs acknowledged this matter was uncomplicated. He also said the only difficulties arising from resolution of this employment relationship problem arose from Mr Halse's failure to engage with the Authority's investigation. For this reason, he said Mr Halse's conduct in this matter should be reflected in any assessment of costs.

[8] Mr Samuelson sought a cost award of \$3,500.00 plus disbursements. In support of his costs application, he provided evidence of costs he had incurred in relation to this matter which totalled \$10,496.69 including expenses of \$71.56 (the Authority application fee).

Outcome

[9] Mr Samuelson was the successful party and costs should follow the event. He is entitled to a contribution to his costs. The investigation meeting took approximately half a day. Applying the tariff for half a day, the appropriate award of costs was \$2,250.

² See www.era.govt.nz/determinations/awarding-costs-remedies.

[10] Accordingly, Mr Halse is ordered to pay \$2,250 in costs, \$71.56 in expenses (being the Authority application fee) to Mr Samuelson within 14 days of the date of this determination.

Alex Leulu
Member of the Employment Relations Authority