

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

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

[2022] NZERA 583  
3135885

BETWEEN	ANGELICA SOSA Applicant
AND	KRESHNIK FEJZULLAHU Respondent

Member of Authority:	Andrew Gane
Representatives:	Michelle Pollak, counsel for the Applicant Mohammad Shabani, counsel for the Respondents
Submissions received:	26 July 2022 from Applicant 8 August 2022 from Respondent
Determination:	9 November 2022

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**COSTS DETERMINATION OF THE AUTHORITY**

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**Background**

[1] In my determination dated 13 July 2022, I found that Ms Sosa was entitled to be paid outstanding wages, outstanding holiday pay, interest on unpaid monies, and a penalty. I reserved costs and encouraged the parties to resolve any issues of costs between themselves.

[2] The parties have been unable to do so. Ms Sosa has provided submissions in support of her claim for an award of costs payable to her by Mr Fejzullahu. Mr Fejzullahu has responded, advising that he is unable pay any costs awarded.

[3] The Authority has adopted a daily tariff approach as the starting point for considering costs. This is well known, and the current daily tariff is \$4,500 for the first

day of hearing, and \$3,500 for subsequent hearing days.<sup>1</sup> The parties can expect the Authority to adhere to this approach, unless there is good reason to depart from it.

## **Principles**

[4] The power of the Authority to award costs is contained in s 15 of schedule 2 of the Employment Relations Act 2000 (the Act). The principles and the approach adopted by the Authority in which an award of costs is made are settled.<sup>2</sup>

### **Ms Sosa’s claim for costs**

[5] The investigation meeting in this matter was for one day and was held in person. Ms Sosa attended together with her representative and witnesses. Mr Fejzullahu appeared with his representative.

[6] In the present case, Ms Sosa seeks payment of the daily tariff of \$4,500 and an uplift of 100% of the daily tariff, plus the filing fee of \$71.56. Ms Sosa submits that this is appropriate as this amount is only a percentage of the “actual and reasonable” costs and reflects Mr Fejzullahu’s general lack of engagement throughout the proceedings.

### **Mr Fejzullahu’s response**

[7] Mr Fejzullahu says he is unable to pay any award of costs.

[8] Although Mr Fejzullahu did not engage in the more fulsome manner that might have been expected prior to the hearing, the investigation meeting ran smoothly, and its duration was not prolonged considering the number of witnesses and the issues involved.

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<sup>1</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).

<sup>2</sup> [Awarding remedies and costs | Employment Relations Authority \(era.govt.nz\)](http://www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1)

## **Orders**

[9] I am not persuaded that there is any reason to depart from the normal tariff approach. Accordingly, I order Mr Fejzullahu to pay to Ms Sosa the sum of \$4,500 towards costs, together with the filing fee of \$71.56 within 14 days of this determination.

Andrew Gane  
Member of the Employment Relations Authority