

[3] TUJ seeks a total contribution towards its costs of \$4,500 based on the daily tariff adopted by the Authority for a one-day investigation meeting. TUJ also seeks reimbursement of the filing fee of \$71.56.

[4] Pro Pine has not lodged submissions in relation to the issue of costs despite having had the opportunity to do so.

Costs principles

[5] The Authority has discretion to award costs, may order any party to pay costs and expenses as it thinks reasonable, and may apportion such costs and expenses between the parties as it thinks fit.²

[6] The principles as to the exercise of that discretion are well known, including that costs will generally follow the event, that awards will be modest, that Calderbank offers may be taken into account, and that costs are not to be used as a punishment or as an expression of disapproval of the unsuccessful party's conduct.³

[7] The daily tariff is usually taken as a starting point,⁴ although is not used in a rigid manner, with principled adjustments made having regard to the particular characteristics of a case.

Consideration

Costs to follow the event

[8] TUJ was successful in pursuing their claims against Pro Pine and it is appropriate that costs follow the event.

Application of the daily tariff

[9] The substantive proceeding involved the setting down of a one-day investigation meeting. The full day was not required. However, further directions were issued, including as to the provision of further documents, information and submissions.

² Employment Relations Act 2000, Schedule 2, clause 15.

³ *PBO Limited (formerly Rush Security Limited) v Da Cruz* [2005] ERNZ 808 at [44] to [46].

⁴ Employment Relations Authority Practice Direction, August 2023, <https://www.era.govt.nz/assets/Uploads/practice-direction-of-era.pdf>

[10] I consider the appropriate starting point for daily tariff approach would see a contribution of \$4,500 (equivalent to one-day). No uplift is claimed, and I consider it appropriate to make an award in that amount.

[11] I also consider it appropriate that an order be made requiring Pro Pine to reimburse TUJ the filing fee of \$71.56.

Orders

[12] I order Pro Pine Silviculture Limited to pay TUJ, within 28 days:

- (a) the sum of \$4,500 as a contribution towards the costs they incurred in pursuing their claims; and
- (b) the sum of \$71.56 as reimbursement of the filing fee.

Rowan Anderson
Member of the Employment Relations Authority