



Employment Court of New Zealand

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Watkins v Highmark Homes Limited [2024] NZEmpC 167 (3 September 2024)

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Watkins v Highmark Homes Limited [2024] NZEmpC 167 (3 September 2024)

Last Updated: 4 November 2025

IN THE EMPLOYMENT COURT OF NEW ZEALAND AUCKLAND

I TE KŌTI TAKE MAHI O AOTEAROA TĀMAKI MAKĀURAU

[\[2024\] NZEmpC 167](#)

EMPC 443/2023

IN THE MATTER OF	a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER OF	an application for costs
BETWEEN	NICOLA WATKINS Plaintiff
AND	HIGHMARK HOMES LIMITED Defendant

Hearing: On the papers
Appearances: Plaintiff in person
R Upton, counsel for defendant
Judgment: 3 September 2024

COSTS JUDGMENT OF JUDGE KATHRYN BECK

[1] This judgment deals with an application for costs from Highmark Homes Ltd (Highmark Homes) 1 following the Court's decision of 13 June 2024 where the Court ordered Ms Watkins to pay security for costs, and the resulting stay of the proceedings when the security was not paid.² Ms Watkins discontinued her substantive claim on 21 August 2024.

[2] The Court has a broad discretion as to costs.³ The discretion must be exercised on a principled basis and in accordance with the interests of justice. The primary

1 The application for costs was filed on 12 August 2024.

2 *Watkins v Highmark Homes Ltd* [\[2024\] NZEmpC 105](#).

3 [Employment Relations Act 2000](#), sch 3 cl 19; and [Employment Court Regulations 2000](#), reg 68.

NICOLA WATKINS v HIGHMARK HOMES LIMITED [\[2024\] NZEmpC 167](#) [3 September 2024]

principle is that costs follow the event so that the successful party is ordinarily entitled to a reasonable contribution from the unsuccessful party.⁴ The Court's discretion is assisted by its guideline scale on costs as set out in its practice directions.⁵

[3] When discontinuing her substantive claim, Ms Watkins indicated that she was unable to pay any costs award and that counsel for Highmark Homes would need to seek payment from the company rather than from her. However, where a claim is discontinued, the plaintiff is required to pay to the defendant costs of the proceeding up to and including the discontinuance.⁶ There is no reason for a departure from this rule in the present case and, accordingly, costs are payable for the substantive proceeding as well as for the successful application by Highmark Homes for security for costs.

[4] I acknowledge that Ms Watkins may face some difficulties in paying an award of costs. The Court discussed her financial situation in some detail in its decision on security for costs. It noted that Ms Watkins was already facing large financial liabilities in relation to other proceedings she has pursued and found that there was a real risk that she would not be able to comply with any costs order if unsuccessful in her substantive claim.⁷

[5] However, even though Ms Watkins may struggle to pay the award of costs, I do not consider it would be equitable to reduce her liability as the merits of the claims that she was pursuing were, on the face of it, not strong.⁸ I note that counsel for Highmark Homes indicated that should Ms Watkins be unable to pay an award of costs outright, it may be possible for the parties to arrange a payment plan. Therefore, I will allow an extended period for payment to give the parties an opportunity to reach a workable agreement.

⁴ *Victoria University of Wellington v Alton-Lee* [2001] NZCA 313; [2001] ERNZ 305 (CA) at [48].

⁵ “Employment Court of New Zealand Practice Directions” <www.employmentcourt.govt.nz> at No 18.

⁶ See [High Court Rules 2016](#), r 15.23.

⁷ *Watkins v Highmark Homes Ltd*, above n 2, at [9]–[13] and [33].

⁸ At [30].

[6] In her memorandum dated 12 August 2024, Ms Watkins sought a stay of any further costs awards pending the outcome of her substantive claim. As her substantive claim has been discontinued, I consider that submission to have been abandoned.

[7] Ms Watkins also submitted that costs should not be awarded because doing so would reward Highmark Homes for breaking the law. In a subsequent email dated 21 August 2024, she indicated that costs should not be awarded as the company has repeatedly committed perjury. However, as already noted, costs follow the event, and the Court has not made any findings against Highmark Homes in these proceedings; nor have there been findings of perjury against it by any other court. Accordingly, that submission does not provide a basis for preventing an award of costs being made.

[8] The remaining submissions and information contained in the memorandum are not relevant to the issue of costs and are accordingly disregarded for the purposes of this application.

[9] Highmark Homes has provided a calculation of scale costs of \$10,396.50 under the Court’s guideline scale on a category 2 band B basis. I accept that the claimed costs are appropriate in the circumstances.

[10] Ms Watkins is accordingly ordered to pay Highmark Homes costs of \$10,396.50.

[11] Such costs are to be paid within 42 days of the date of this judgment.

Kathryn Beck Judge

Judgment signed at 9.15 am on 3 September 2024