

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

[2017] NZERA Wellington 48
3000203

BETWEEN

MORRIS JURY
BRENDAN LAUGHTON
MELISSA DEN HOLLANDER
and EMMET MCATEER
Applicants

A N D

EFFICIENT LIGHTING
TECHNOLOGY LIMITED
First Respondent

HAROLD LEAUPEPE
Second Respondent

Member of Authority: T G Tetitaha

Representatives: B Laracy, Counsel for Applicants
G Denholm, Counsel for Respondents

Investigation Meeting: On the papers

Submissions: 12 April and 3 May 2017 from Applicant
20 April from Second Respondent

Date of Determination: 12 June 2017

COSTS DETERMINATION OF THE AUTHORITY

A. Given his conduct, I decline to grant costs to Mr Leaupepe.

B. Efficient Lighting Technology Limited is ordered to pay to the applicants \$4,500 towards their legal costs.

Employment relationship problem

[1] The Authority in its substantive determination dated 6 April 2017¹ dismissed the application against the Second Respondent, Harold Leaupepe and made orders for payment of wage arrears and penalties against the First Respondent.

¹ *Morris Jury & Ors v Efficient Lighting Technology Ltd & Anor* [2017] NZERA Wellington

[2] The applicants seek costs at the Authority's daily costs tariff of \$4,500. The second respondent also seeks costs of \$6,850.00. Neither party has provided evidence about their actual costs.

What is the starting point for assessing costs?

[3] In the Authority there is a daily tariff based approach to costs.² The current notional daily tariff is \$4,500 per hearing day. This matter involved a one day investigation meeting. The starting point for assessing costs is therefore \$4,500.

Are there any factors that warrant adjusting the notional daily tariff?

[4] There was conduct by Mr Leaupepe that unnecessarily increased costs. This included:

- a) Failure to attend 1 February 2017 telephone conference;
- b) Failure to file evidence as directed;
- c) Late filing of evidence on the eve of the hearing;
- d) Unnecessarily disputing holiday pay owed to Mr McAteer;
- e) Non-attendance in person at hearing;
- f) Late notice of his non-attendance in person at hearing resulting in an unnecessary telephone conference and time wasted in travelling to video conferencing facilities; and
- g) A late application for Mr Leaupepe to give oral evidence in lieu of any written evidence.

[5] Given his conduct, I decline to grant costs to Mr Leaupepe.

[6] There is no basis to make any adjustment to the costs sought by the applicants against the First Respondent.

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² *Mattingly v Strata Title Management Ltd* [2014] NZEMPC 15 at [16]

[7] Efficient Lighting Technology Limited is ordered to pay to the applicants \$4,500 towards their legal costs.

TG Tetitaha
Member of the Employment Relations Authority