

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

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

[2019] NZERA 584  
3058272

BETWEEN

MANUFACTURING &  
CONSTRUCTION  
WORKERS UNION  
INCORPORATED  
Applicant

AND

MIDLAND SCAFFOLDING  
& RIGGING LIMITED  
First Respondent

ASHLEY BROWN  
Second Respondent

LEONARD HUNTER  
Third Respondent

Member of Authority: Vicki Campbell

Representatives: Lou Yukich for Applicant  
Matthew Dearing for Respondent

Submissions received: 7 October 2019 from Applicant  
23 September 2019 from Respondent

Determination: 11 October 2019

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**COSTS DETERMINATION OF THE AUTHORITY**

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- A. The Manufacturing & Construction Workers Union Inc. is ordered to pay the sum of \$6,250 to Midland Scaffolding & Rigging Limited within 28 days of the date of this determination as a contribution to its costs.**

[1] In a determination dated 26 August 2019 I declined the Manufacturing & Construction Workers Union Inc.'s application to impose penalties against Midland Scaffolding & Rigging Limited, Mr Brown and Mr Hunter.<sup>1</sup>

[2] I reserved costs and invited the parties to resolve the issue between them. The parties have been unable to resolve the matter and they have lodged costs memoranda seeking a determination of the issue.

[3] The discretion to award costs, while broad, is to be exercised in a principled way. The primary principle is that costs follow the event. The Authority has the power to order any party to pay to any other party such costs and expenses as the Authority thinks reasonable.<sup>2</sup> The principles applying to costs are well settled and do not require repeating.<sup>3</sup>

[4] An assessment of costs in the Authority will normally start with the notional daily tariff which is \$4,500 for the first day of an investigation meeting and \$3,500 for each subsequent day.<sup>4</sup> The investigation meeting took one and a half days so the starting point is \$6,250.

[5] The respondents together incurred costs of \$12,531.57. They seek a contribution to costs at the daily tariff.

[6] I have carefully considered the submissions from both parties. Having regard to all the circumstances of this matter, I have decided the daily tariff of \$6,250 is appropriate. This must be paid to Midland Scaffolding & Rigging Limited within 28 days of the date of this determination.

Vicki Campbell  
Member of the Employment Relations Authority

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<sup>1</sup> *Manufacturing Construction Workers Union Inc v Midland Scaffolding & Rigging Ltd & 2 Ors* [2019] NZERA 498.

<sup>2</sup> Employment Relations Act 2000, Schedule 2, clause 15.

<sup>3</sup> *PBO Ltd v Da Cruz* [2005] 1 ERNZ 808, 819-820 and *Fagotti v Acme & Co Limited* [2015] NZEmpC 135 at [106] – [108].

<sup>4</sup> Practice Note 2, Costs in the Employment Relations Authority.