

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2019] NZERA 683
3049912

BETWEEN	JANIS MCCUE Applicant
AND	O'BOYLE LAW LIMITED First Respondent
AND	LYNETTE O'BOYLE Second Respondent

Member of Authority: Robin Arthur

Representatives: David Grindle and Cheyenne Kumar, counsel for the applicant
Vinay Deobhakta, advocate for the respondents

Determination: 28 November 2019

COSTS DETERMINATION OF THE AUTHORITY

[1] Janis McCue succeeded in her application to the Authority regarding personal grievances and wage arrears. Lynette O'Boyle was ordered to pay remedies for Ms McCue's grievances, wage arrears and penalties.¹

[2] Ms McCue was also entitled to an award of costs. In closing submissions given at the one day investigation meeting Ms McCue sought the Authority's usual daily tariff of \$4,500. Ms O'Boyle asked for costs to be reserved. The determination issued after that meeting set a date for Ms O'Boyle to lodge and serve a memorandum on costs, with Ms McCue then having time to reply. It noted that a brief supplementary determination on costs would be issued if costs were not agreed meanwhile or no memoranda were lodged.

¹ *McCue v O'Boyle Law Limited & O'Boyle* [2019] NZERA 648.

[3] By the date set Ms O'Boyle had not lodged a memorandum. On inquiry from the Authority Ms McCue's counsel confirmed costs had not been agreed. Ms McCue's counsel asked that the supplementary determination on costs hold Ms O'Boyle and O'Boyle Law Limited "severally and jointly" liable for paying costs at the tariff rate to Ms McCue.

[4] In the Authority investigation meeting Ms O'Boyle had accepted she had employed Ms McCue in her personal capacity. The determination found Ms O'Boyle remained personally liable for obligations arising out of the employment relationship. This includes liability for costs. It falls on Ms O'Boyle personally, not the company.

Order

[5] Within 14 days of the date of this determination Ms O'Boyle must pay costs of \$4,500 to Ms McCue.

Robin Arthur
Member of the Employment Relations Authority