

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

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

[2019] NZERA 386  
3047472

BETWEEN                      STEVEN JOBBITT  
   Applicant  
  
AND                                4 SEASONS INDOOR  
   OUTDOOR LIVING (2014)  
   LIMITED  
   Respondent

Member of Authority:      Rachel Larmer  
  
Representatives:            Warwick Reid, Advocate for Applicant  
   Anjela Sharma, Counsel for Respondent  
  
Investigation Meeting:     On the papers  
  
Submissions Received:     24 June 2019 from Respondent  
   27 June 2019 from Applicant  
  
Date of Determination:     01 July 2019

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**COSTS DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1]     4 Seasons Indoor Outdoor Living (2014) Limited (4 Seasons) was the successful party regarding its claim that Mr Jobbitt was prevented by s 67B of the Employment Relations Act 2000 (the Act) from pursuing personal grievance claims against it.

[2]     4 Seasons now seeks an award of \$4,500 costs for the preliminary jurisdiction determination plus \$350 for this costs application.

[3]     Mr Jobbitt says he offered to pay 4 Seasons \$2,250 based on half of the daily tariff for the first day of an investigation meeting, because the matter was dealt with on the papers. He also pointed out that it was Ms Sharma's 'gloss' that was put on 4 Season's evidence that Mr

Jobbitt was told his employment would end of 17 August that increased the parties costs as evidence about that conflict was required.

[4] This matter was dealt with on the papers. For the purposes of assessing costs it will be treated as if it involved a half day of investigation meeting time. The notional starting tariff for assessing costs in this matter is therefore \$2,250 (being half of the \$4,500 tariff for the first day of an investigation meeting).

[5] A separate amount will not be awarded for the preparation of this costs application. The Authority is satisfied that half of the notional daily tariff adequately reflects the work required in this 'on the papers' investigation, inclusive of this costs application. If 4 Seasons had accepted Mr Jobbitt's reasonable offer of \$2,250 costs then neither party would have incurred the costs associated with this costs application.

[6] The Authority does not consider there are any factors that warrant increasing the notional starting tariff. 4 Seasons' submission that it should be increased due to changes Mr Jobbitt made to the remedies he claimed in his Statement of Problem does not succeed.

[7] The matter never got as far as a substantive investigation meeting because the Authority concluded in its preliminary jurisdiction determination that it did not have jurisdiction to investigate his claims. The remedies claimed cannot reasonably be viewed as having increased 4 Seasons' costs in this matter.

[8] The Authority does not consider there are any grounds that warrant reducing the notional starting tariff. Nor are there any grounds to warrant increasing it. The Authority therefore adopts the notional daily tariff, on a pro-rated basis.

[9] Accordingly, within 28 days of the date of this determination, Mr Jobbitt is ordered to pay 4 Seasons \$2,250 towards its actual legal costs.

**Rachel Larmer**  
**Member of the Employment Relations Authority**