

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

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

[2019] NZERA 455  
3034337

BETWEEN FEE WENG (FRANK) YEE  
Applicant

AND NZ NATURAL BEEF AND  
LAMB LIMITED  
Respondent

Member of Authority: Rachel Larmer

Representatives: Jennifer Wicks, counsel for the Applicant  
Shelley Eden and Dasha Kovalenko, counsel for the  
Respondent

Investigation Meeting: On the papers

Submissions and Other 12 July 2019 from the Respondent  
Information Received: 29 July 2019 from the Applicant

Date of Determination: 01 August 2019

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**COSTS DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1] NZ Natural Beef and Lamb Limited (NZNBL) succeeded in its claim that the Authority did not have jurisdiction to investigate Mr Yee's claims because the parties were never in an employment relationship.

[2] NZNBL as the successful party is entitled to as contribution towards its actual legal costs. The parties were encouraged to resolve cost by agreement, but in case that did not occur the Authority also set a timetable for the exchange of costs submissions.

[3] NZNBL filed its costs submissions on 12 July 2019. Mr Yee's costs submissions were due on 19 July 2019. However he asked for an extension of time for filing his submissions.

That was granted so time for filing his submissions was extended to 29 July 2019. On that date Mr Yee advised the Authority that he did not wish to file any costs submissions.

[4] Costs have therefore been determined on the basis of the available information.

[5] NZNBL says its actual legal costs exceeded \$38,000. It seeks a contribution of \$4,050 which is pro-rata of the \$4,500 for the first day of an investigation meeting on the basis this matter took 0.9 of a full day of investigation meeting, because the investigation meeting was 5 ½ hours (10am to 3.30pm).

[6] The Authority is not aware of any circumstances that should result in the notional starting tariff of \$4,050 (pro rata of notional tariff for first day of investigation meeting time) being adjusted and the parties did not identify any such reasons.

[7] Mr Yee is therefore ordered to pay NZNBL costs of \$4,050 in accordance with the application of the Authority's usual notional daily tariff based approach to assessing costs. This amount is to be paid by Mr Yee to NZNBL within 30 days of the date of this determination.

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