

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2019] NZERA 156

3012411

BETWEEN MANUFACTURING AND
 CONSTRUCTION WORKERS
 UNION INCORPORATED
 First Applicant

A N D ELECTRICAL UNION
 INCORPORATED
 Second Applicant

A N D UGL (NZ) LIMITED
 Respondent

3026316

BETWEEN UGL (NZ) LIMITED
 Applicant

AND MANUFACTURING AND
 CONSTRUCTION WORKERS
 UNION INCORPORATED
 First Respondent

AND ELECTRICAL UNION
 INCORPORATED
 Second Respondent

Member of Authority: TG Tetitaha

Representatives: L Yukich for both Unions
 D Langridge for UGL (NZ) Limited

Investigation Meeting: On the papers

Submissions: 16 December 2018 from the Unions
 23 January 2019 from UGL (NZ) Limited

Date of Determination: 18 March 2019

COSTS DETERMINATION OF THE AUTHORITY

A. Each party is to meet their own legal costs.

Employment relationship problem

[1] This determination deals with costs in respect of two applications. The first determination (3012411) declined both Union's joint application for facilitation.¹ The second determination (3026316) declined an application by UGL (NZ) Ltd to conclude bargaining. I also declined to consider reopening facilitation.² Costs were reserved on both matters.

[2] Both parties seek costs to be awarded to it or reduced due to their successes and the other's conduct.

[3] The Authority has adopted a notional daily tariff based approach to costs.³ Matters lodged in the Authority from 1 August 2016 are subject to the increased daily tariff of \$4,500.⁴ This matter involved two one day investigation meetings. The starting point is therefore \$8,000.

[4] Both parties were successful in defending the others application. Generally costs follow the event. Therefore neither should be awarded any costs as a consequence.

[5] There was also evidence both parties' conduct contributed towards increasing the other's costs. For example UGL did not utilise directed mediation to continue bargaining resulting in wasted mediation time. The Unions then withdrew their bargaining notices one day prior to hearing resulting in wasted hearing time. There were other examples of conduct increasing costs that are not set out herein.

[6] In the circumstances each party is to meet their own legal costs.

TG Tetitaha
Member of the Employment Relations Authority

¹ *Manufacturing and Construction Workers Union Inc and Anor v UGL (NZ) Ltd* [2018] NZERA Auckland 85

² *UGL (NZ) Limited v Manufacturing and Construction Workers Union Incorporated and Anor* [2018] NZERA Auckland 398.

³ *Mattingly v Strata Title Management Ltd* [2014] NZEmpC 15 at [16].

⁴ Practice Note 2 Costs in the Employment Relations Authority para.4.