

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2020] NZERA 242
3076593

BETWEEN

MARK SCHOLLUM
Applicant

AND

INTERNATIONAL
EDUCATION GROUP (NZ)
LIMITED
First Respondent

Member of Authority: Vicki Campbell

Representatives: Mako Schollum, advocate for Applicant
Margaret Baker for Respondent

Submissions received: 7 and 21 June 2020 from Applicant
19 June 2020 from Respondent

Determination: 23 June 2020

COSTS DETERMINATION OF THE AUTHORITY

- A. International Education Group (NZ) Limited is ordered to pay to Mr Schollum the sum of \$499.13 as a contribution toward costs within 14 days of the date of this determination.**

[1] In a determination dated 21 May 2020 I held that one or more conditions of Mr Schollum's employment had been affected to his disadvantage by the unjustified actions of International Education Group (NZ) Limited trading as Waikato Institute of Education (WIE), when he was issued with a warning.¹

¹ *Schollum v International Education Group (NZ) Ltd* [2020] NZERA 205.

[2] I reserved costs and invited the parties to resolve the issue between them. The parties have been unable to resolve the matter and Mr Schollum has lodged a costs memorandum 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.² The principles applying to costs are well settled and do not require repeating.³

[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.⁴ The investigation meeting took one day so the starting point is \$4,500.

[5] The purpose of a costs award is to provide a successful party with a reasonable contribution to the costs they have incurred for being represented. Mr Schollum seeks a contribution of \$1,000 towards his costs. In his memorandum he sets out the costs he says he has incurred which includes payment for time he took off work on paid leave. If I were to reimburse Mr Schollum for time he took off work as paid leave, he would effectively be paid twice for the same time.

[6] Mr Schollum was assisted with his application in the Authority by his wife. However, I am satisfied Mr Schollum did seek legal advice in February 2020 for which he was charged. This amounted to \$427.57 including GST. He has also incurred the filing fee of \$71.56 which he is entitled to have reimbursed.

[7] I am satisfied it is appropriate to exercise my discretion and award a contribution to Mr Schollum's legal costs and the costs associated with the filing of his application.

² Employment Relations Act 2000, Schedule 2, clause 15.

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

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

[8] International Education Group (NZ) Limited is ordered to pay to Mr Schollum the sum of \$499.13 as a contribution toward costs within 14 days of the date of this determination.

Vicki Campbell
Member of the Employment Relations Authority