

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2020] NZERA 280
3100332

BETWEEN LESTER BRETT ANTHONY
 ROBINSON
 Applicant

AND A-Z RIGGING &
 SCAFFOLDING LIMITED
 Respondent

Member of Authority: Jenni-Maree Trotman

Representatives: Rachel Webster, counsel for the Applicant
 Dudley Hoskin, on behalf of the Respondent

Investigation Meeting: On the papers

Submissions and further
Information Received: 24 June 2020 from Applicant

Date of Determination: 21 July 2020

COSTS DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] On 15 June 2020, the Authority issued a determination in which A-Z Scaffolding and Rigging Limited was found to have failed to comply with the Authority's determination dated 13 March 2020. A compliance order was made that required A-Z Scaffolding and Rigging to comply with that determination on certain conditions.

[2] Costs were reserved with the parties being encouraged to resolve that issue themselves. In the event that they could not, I set a timetable for submissions. Submissions were filed on behalf of Mr Robinson on 24 June 2020. No submissions were received by the Authority from A-Z Rigging and Scaffolding Limited.

Application for costs

[3] Mr Robinson applies for costs based on the notional daily tariff set by the Authority. This is \$4,500 for the first day of an investigation meeting.¹ The tariff is then adjusted upwards or downwards depending on the particular circumstances of the case.

Authority's Approach to Costs

[4] The Authority may order any party to a matter to pay to any other party such costs and expenses as the Authority considers reasonable.²

[5] In *PBO Ltd v Da Cruz*, a full Court set out the principles that are appropriate for the Authority to apply when considering an application for costs.³ These principles were confirmed as remaining appropriate in *Fagotti v Acme & Co Limited*.⁴ I have taken into account these principles when exercising my discretion to award costs.

Analysis

[6] This matter took place over one quarter day. The starting point for consideration of costs is \$1,125.

[7] There are no reasons that I am aware of that would justify an increase to the daily tariff. However, I am satisfied that the Authority should reduce this sum due to the limited attendances that were required to be undertaken by Mr Robinson's Representative.

[8] I find that a fair contribution towards Mr Robinson's costs is \$750.

Outcome

[9] A-Z Rigging and Scaffolding Limited is ordered to pay Lester Robinson the sum of \$750 within 28 days of the date of this determination.

Jenni-Maree Trotman
Member of the Employment Relations Authority

¹ Practice Note 2, Costs in the Employment Relations Authority.

² Employment Relations Act 2000, Schedule 2 clause 15.

³ *PBO Ltd (Formerly Rush Security Ltd) v Da Cruz*[2005] ERNZ 808 (EmpC) at [44].

⁴ *Fagotti v Acme & Co Ltd* [2015] ERNZ 919 at [114].