

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2022] NZERA 581
3136483

BETWEEN

CLAUDETE DE SILVA
Applicant

AND

TE RITO FOUNDATION
LIMITED
First Respondent

RAEWYN KAPA
Second Respondent

Member of Authority: Andrew Gane

Representatives: Gerardus Elwell, counsel for the Applicant
Raewyn Kapa, for the Respondents

Submissions received: 3 August 2022 from Applicant
No submissions from Respondent

Determination: 9 November 2022

COSTS DETERMINATION OF THE AUTHORITY

Background

[1] In my determination dated 13 July 2022, I found that Applicant, Ms De Silva was entitled to be paid outstanding wages, outstanding holiday pay, interest on unpaid monies, and compensation from the First Respondent, Te Rito Foundation limited. I made no orders against the Second Respondent, Ms Raewyn Kapa. I reserved costs and encouraged the parties to resolve any issues of costs between themselves.

[2] The parties have been unable to do so. Ms De Silva has provided submissions in support of her claim for an award of costs payable to her by the respondent. These submissions have been sent to the Te Rito Foundation Limited and Ms Kapa. Te Rito Foundation Limited and Ms Kapa have not responded.

[3] The Authority has adopted a daily tariff approach as the starting point for considering costs. This is well known, and the current daily tariff is \$4,500 for the first day of hearing, and \$3,500 for subsequent hearing days.¹

[4] The parties can expect the Authority to adhere to this approach, unless there is good reason to depart from it.

Ms De Silva's claim for costs

[5] The investigation meeting in this matter was for one day and was held in person. Ms De Silva attended together with her representative and witnesses. Ms Kapa appeared in person and for the Te Rito Foundation Limited.

[6] In the present case, Ms De Silva seeks payment of the daily tariff of \$4,500. and the filing fee of \$71.56.

Principles

[7] The power of the Authority to award costs is contained in s 15 of schedule 2 of the Employment Relations Act 2000 (the Act). The principles and the approach adopted by the Authority in which an award of costs is made are settled.²

[8] The Te Rito Foundation Limited has not put forward any argument as to why there should be a departure from the normal daily tariff rate.

Orders

[9] I find there is no reason to depart from the normal tariff approach. Accordingly, I order the Te Rito Foundation Limited to pay to Ms Sosa the sum of \$4,500 towards costs, together with the filing fee of \$71.56 within 14 days of this determination.

Andrew Gane
Member of the Employment Relations Authority

¹ For further information about the factors considered in assessing costs, see: www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1 .

² [Awarding remedies and costs | Employment Relations Authority \(era.govt.nz\)](http://www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1)