

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

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

[2023] NZERA 114  
3096412 and 3096473

|         |  |
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| BETWEEN | ELLIOT PARK<br>Applicant   |
|         | MYUNGHEE JEON<br>Applicant   |
| AND     | THE KOREAN SOCIETY OF<br>AUCKLAND INCORPORATED<br>First Respondent |
| AND     | KYUNG SOOK WILSON<br>Second Respondent                             |

Member of Authority: Geoff O'Sullivan

Representatives: Brenda McDonald, advocate for the Applicants  
Jong Sun Lim, counsel for the First Respondent  
James Joon-Yung Song, counsel for the Second Respondent

Investigation Meeting: On the papers

Submissions Received: Up to and including 11 January 2023

Date of Determination: 07 March 2023

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**COSTS DETERMINATION OF THE AUTHORITY**

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[1] On 25 November 2022 the Authority issued a substantive determination against the Korean Society of Auckland Incorporated and in favour of the Applicants. Ms Wilson successfully defended the claims brought against her personally by Ms Jeon and Mr Park.

[2] Costs were reserved in the hope that the parties would be able to resolve these issues between themselves. Unfortunately, they have been unable to do so and the parties have filed submissions in respect of costs.

[3] Costs submissions have been filed by the parties. For Ms Jeon and Mr Park, related expenses are applied for including translation costs and other legal costs. I do not however consider there is a proper basis on which the Korean Society should be required to meet those extra charges.

[4] The Authority has adopted and publicised a daily tariff approach as a starting point for considering costs. Good reason is required to depart from this approach. The current tariff is \$4,500 for the first day and \$3,500 for the second day. In respect of these matters, although the cases were in effect heard separately, Mr Park gave evidence for Ms Jeon and vice versa. The Korean Society and Ms Wilson together with their representatives, were present the entire time as they needed to be. On that basis, I see no need to depart from applying the notional daily tariff in this case, which results in the following:

- (a) A sum of \$4,500 plus \$1,750 in respect of Ms Jeon.
- (b) A sum of \$4,500 plus \$1,750 in respect of Mr Park; and
- (c) A sum of \$9,750 in respect of Ms Wilson.

### **Principles**

[5] The power of the Authority to award costs is contained in s 15 of Schedule 2 of the Employment Relations Act 2000 (the Act) which states:

- 15      **Power to award costs**
- (1)      The Authority may order any party to a matter to pay to any other party such costs and expenses (including expenses of witnesses) as the Authority thinks reasonable.
  - (2)      The Authority may apportion any such costs and expenses between the parties or any of them as it thinks fit, and may at any time vary or alter any such order in such manner as it thinks reasonable.

[6] The parties ensured that the investigation meeting was conducted efficiently, albeit under quite difficult circumstances, partly because of a need to translate. In that regard a translator was present throughout the hearing. The parties' representatives conducted the case in a well organised and helpful way.

[7] Throughout the course of this employment relationship problem, it was made clear to both the Applicants that there could be adverse cost effects because of the joining to the proceedings of Ms Wilson who was not the employer. That is indeed the case as the determination finds that Ms Wilson had no liability in a personal capacity.

**Orders**

[8] The Korean Society of Auckland Incorporated must pay Ms Jeon the sum of \$6250 plus a filing fee of \$71.56 on account of costs.

[9] The Korean Society of Auckland Incorporated must pay Mr Elliot the sum of \$6,250 plus a filing fee of \$71.56 on account of costs.

[10] Ms Jeon must pay Kyung Sook Wilson the sum of \$4,875 on account of costs.

[11] Mr Park must pay Kyung Sook Wilson the sum of \$4,875 on account of costs.

**Geoff O'Sullivan**  
**Member of the Employment Relations Authority**