

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

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

[2023] NZERA 386  
3139361

BETWEEN	RAJINDER SINGH Applicant
AND	DELICIOUS PIZZA LIMITED First Respondent
AND	RAMANPREET KAUR Second Respondent
AND	DHARMINDER SINGH Third Respondent

Member of Authority: Andrew Gane

Representatives: John Wood, advocate for the Applicant  
Danny Gelb, advocate for the Respondent

Investigation Meeting: On the papers.

Submissions and other: 20 June 2023 from the Respondent  
material received: No submissions from the Applicant

Determination: 28 July 2023

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**COST DETERMINATION OF THE AUTHORITY**

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**Background**

[1] By determination issued on 6 June 2023, the Authority made findings that the Rajinder Singh's (Mr Singh) personal grievance for unjustified dismissal was not made out. His other claims were also unsuccessful. The Authority reserved the issue of costs and encouraged the parties to resolve any issues of costs between themselves.

[2] The parties have been unable to do so. Delicious Pizza Limited (Delicious Pizza), Ramanpreet Kaur and Dharminder Singh's representative provided submissions in support of their claim for an award of costs payable to them by Mr Singh. These submissions have been sent to Mr Singh, who has 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.<sup>1</sup>

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

### **The claim for costs**

[5] The investigation meeting in this matter took three days. The parties attended together with their representatives and other witnesses.

[6] Delicious Pizza, Ms Kaur and Dharminder Singh seek payment of \$17,500 costs. Their representative submits that their costs were unnecessarily increased due to the way Mr Singh prepared and presented his case.

[7] The power of the Authority to award costs is contained in cl 15 of sch 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.

[8] Mr Sing has not put forward any argument as to why there should be a departure from the normal daily tariff rate of \$4,500 for the first day of hearing and \$3,500 for subsequent hearing days. There is no reason to depart from the usual principle that a successful party is entitled to a contribution towards their representation costs. In the circumstances of the case, there is no need for an increase in costs above the daily tariff.

[9] In terms of apportionment of any costs award between the successful parties, a review of the representative's invoices provided to the Authority discloses that they are made out in the name of "Delicious Pizza". In the absence of any evidence to the contrary, on its face at least, as Delicious Pizza is paying the costs of representation it is

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<sup>1</sup> For further information about the factors considered in assessing costs, see: [www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1](http://www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1) .

entitled to the benefit of any costs order. If some other arrangement exists, it would be a matter for the successful parties to work that out between them.

### **Orders**

[10] Mr Singh must pay Delicious Pizza, \$11,500 as a contribution towards costs within 14 days of the date of this determination.

Andrew Gane  
Member of the Employment Relations Authority