

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2023] NZERA 414
3165668

BETWEEN CHLOE CATANACH-HESSELL
Applicant
AND THE BUTCHERS MISTRESS 2021
LIMITED
Respondent

Member of Authority: Peter van Keulen
Representatives: Alex Kersjes, advocate for the Applicant
No engagement from the Respondent
Investigation Meeting: On the papers
Submissions Received: 11 July 2023 from the Applicant
Date of Determination: 3 August 2023

COSTS DETERMINATION OF THE AUTHORITY

The substantive determination

[1] In a determination dated 29 June 2023, I found that The Butchers Mistress 2021 Limited had unjustifiably dismissed Chloe Catanach-Hessell.¹

[2] In my determination I reserved costs so that the parties could try to agree costs. The parties were unable to agree and now Ms Catanach-Hessell seeks an order for costs.

¹ *Chloe Catanach-Hessell v The Butchers Mistress 2021 Limited* [2023] NZERA 342.

Application for costs

[3] The advocate for Ms Catanach-Hessell seeks an award of costs based on applying the daily tariff to an investigation meeting that he says took three quarters of one day. The advocate says the conduct of the representative of The Butchers Mistress 2021 Limited was unreasonable, which protracted this matter and the award of costs should be increased to reflect this; the advocate submits that the costs award should reflect the tariff amount for a one-day investigation meeting.

[4] The Butchers Mistress did not engage in the application for costs and no submissions have been received from it.

Analysis

Costs in the Authority

[5] The power of the Authority to award costs is set out at clause 15 of Schedule 2 of the Employment Relations Act 2000. The principles and approach adopted by the Authority in respect of this power are outlined in the Authority's practice note on costs.²

Costs for Ms Catanach-Hessell

[6] The starting point is that costs should follow the event. As Ms Catanach-Hessell was successful she is entitled to an award of costs.

Applying the daily tariff

[7] In awarding costs I will follow the normal practice of the Authority when setting costs, which is applying a set amount for each day of the investigation meeting calculating quantum based on the time spent in the investigation meeting; this is applying the daily tariff.

² For further information about the factors considered in assessing costs, see: www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1.

[8] The investigation meeting took one half day, not three quarters of one day as submitted. On this basis the starting point for the cost is \$2,250.00 – based on the current daily tariff of 4,500.00 for the first day of an investigation meeting.

Adjusting the daily tariff

[9] From this point I need to consider whether the daily tariff amount should be adjusted to reflect the alleged behaviour of The Butchers Mistress' representative. I am not satisfied that the representative acted in a way that protracted or caused any additional work in this matter. In fact, I found the representative to be helpful and fully engaged in the investigation process.

[10] There is no reason to adjust the daily tariff in this matter.

Disbursements

[11] Ms Catanach-Hessell is entitled to be paid the filing fee of \$71.56.

Order

[12] The Butchers Mistress 2021 Limited is to pay Chloe Catanach-Hessell \$2,250.00 as a contribution to her costs in this matter and disbursements of \$71.56.

Peter van Keulen
Member of the Employment Relations Authority