

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

**I TE RATONGA AHUMANA TAIMAHI
TE WHANGANUI-Ā-TARA ROHE**

[2023] NZERA 63
3167223

BETWEEN HONE HEKE TANIWHA
Applicant

AND TE RUNANGA O TOA
RANGATIRA INC
Respondent

Member of Authority: Geoff O’Sullivan

Representatives: Liz Lambert, representative for the Applicant
Blair Scotland, counsel for the Respondent

Investigation Meeting: On the papers

Submissions Received: Up to and including 9 December 2022

Date of Determination: 9 February 2023

COSTS DETERMINATION OF THE AUTHORITY

[1] On 25 November 2022, I issued a determination concluding that Mr Taniwha’s personal grievances were not raised within the statutory 90-day time frame provided for in the Employment Relations Act 2000 (the Act). Te Runanga O Toa Rangatira Inc (Te Runanga) does not consent to Mr Taniwha raising his grievances out of time and Mr Taniwha did not argue any exceptional circumstances existed which may have caused a delay. Indeed, he said he had raised his grievances on more than one occasion within the 90-day period.

[2] Costs were reserved and the parties were encouraged to resolve this matter between them. They have been unable to resolve the matter and Te Runanga now seeks a contribution to its costs.

[3] The discretion to award costs, whilst broad, is to be exercised in a principled way. The primary principle is that costs follow the event. The Authority has the power to order any party to pay to any other party such costs and expenses as the Authority thinks reasonable.¹ The principles applying to costs are well settled and do not require repeating.

[4] An assessment of costs in the Authority would normally start with a notional daily tariff which is \$4,500 for the first day of an investigation meeting and \$3,500 for each subsequent day. In this instance, the 90-day issue was heard as a preliminary issue and was heard on the papers. Both parties provided submissions and other material in support of their respective positions.

The parties' submissions

[5] Te Runanga has filed a memorandum as to costs, however, despite having the opportunity to do so, Mr Taniwha has not responded to them other than saying that the matter is on appeal and therefore presumably costs should not be dealt with. Mr Taniwha was advised that the Authority would be dealing with costs but has not participated.

[6] In its submissions, Te Runanga submits that an award of \$1,000 should be made, pointing out that Te Runanga has incurred legal costs in defending the matter and these costs exceed the \$1,000 requested. It is also submitted that Te Runanga was required to prepare and file evidence.

Conclusion and orders

[7] Te Runanga's submissions seem reasonable under the circumstances and accordingly, I order Hone Heke Taniwha to pay to Te Runanga O Toa Rangatira Incorporated the sum of \$1,000 as a contribution towards the costs it incurred in defending the claim.

Geoff O'Sullivan
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