

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

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

[2023] NZERA 647  
3164604

BETWEEN

NICOLE ROSS  
Applicant

AND

THE PRIORY IN NEW ZELAND  
OF THE MOST VENERABLE  
ORDER OF THE HOSPITAL OF  
ST JOHN OF JERUSALEM  
Respondent

Member of Authority: Sarah Kennedy-Martin

Representatives: Allan Halse, advocate for the Applicant  
Charlotte Parkhill, counsel for the Respondent

Date: 2 November 2023

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**COSTS DETERMINATION OF THE AUTHORITY**

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[1] In a determination dated 11 September 2023 I found the Authority did not have jurisdiction to hear Ms Ross' claims because she was not an employee of The Priory in New Zealand of the Most Venerable Order of the Hospital of St John of Jerusalem (St John).<sup>1</sup>

[2] Costs were reserved. The parties have been unable to agree on costs and St John seeks an order for an award of costs equivalent to the notional daily tariff for one day of \$4,500.00 as a contribution to its costs.

[3] It is submitted on behalf of Ms Ross that she is not in a position to pay any costs awarded due to financial hardship and the Authority should exercise its equity and good conscience jurisdiction and let costs lie where they fall.

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<sup>1</sup> *Ross v The Priory in New Zealand of the Most Venerable Order of the Hospital of St John of Jerusalem* [2023] NZERA 517.

[4] Costs are a matter of discretion. The Authority may order any party to a matter to pay to any other party such costs and expenses as the Authority thinks reasonable.<sup>2</sup> The discretion is to be exercised in accordance with principle and not arbitrarily. The main principle in the exercise of the discretion is that costs follow the event. If a party is successful, they will be entitled to an award of costs.

[5] The starting point for costs based on the Authority's daily tariff is \$4,500.00 for the first day. From that starting point the Authority can consider whether there are factors justifying and increase or decrease in costs.

[6] The Authority's investigation meeting amounted to three quarters of a day. The starting point based on the notional daily tariff is therefore \$3,375.00. I note the submissions with regard to financial hardship, but I was provided with no evidence to support that submission.

[7] St John was the successful party and is entitled to an award of costs. I consider that an award for costs in the amount of \$3,375.00 is appropriate.

### **Orders**

[8] I order Nicole Ross to pay \$3,375.00 in costs to the Priory in New Zealand of the Most Venerable Order of the Hospital of St John of Jerusalem.

**Sarah Kennedy-Martin**  
**Member of the Employment Relations Authority**

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<sup>2</sup> Employment Relations Act 2000, sch 2, cl 15.