

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2023] NZERA 778
3133735

BETWEEN	LABOUR INSPECTOR Applicant
AND	4S HOSPITALITY LIMITED First Respondent
AND	GURVINDER SINGH SIDHU Second Respondent
AND	AMARDEEP SINGH Third Respondent
AND	KULJINDER SINGH SIDHU Fourth Respondent

Member of Authority: Philip Cheyne

Representatives: Rochelle Hill, counsel for the Applicant
Gurvinder Singh Sidhu and Kuljinder Singh Sidhu for the
First Respondent
Second respondent in person
Third Respondent in person
Fourth Respondent in person

Submissions Received: 5 December 2023 from the Applicant
6 December 2023 from First Respondent, Second Respondent
and Fourth Respondent
16 December 2023 from Third Respondent

Date of Determination: 22 December 2023

COSTS DETERMINATION OF THE AUTHORITY

[1] In an earlier determination,¹ orders were made against 4S Hospitality Limited as the employer regarding arrears of wages and holiday pay, and against Kuljinder Singh Sidhu as a person involved in 4S Hospitality Limited's breaches. Penalties were also imposed. The

¹ *Labour Inspector v 4S Hospitality Limited and Ors* [2023] NZERA 697.

claims against Gurvinder Singh Sidhu and Amardeep Singh did not succeed. Costs were reserved.

[2] I now have submissions for the Labour Inspector and replies from Gurvinder Singh Sidhu, Amardeep Singh and Kuljinder Singh Sidhu.

[3] This determination resolves the matter of costs.

The Labour Inspector is entitled to costs

[4] The Authority has power to order any party to a matter to pay any other party such costs as are considered reasonable. The power is discretionary but must be exercised in a principled rather than an arbitrary manner.

[5] A successful party who incurs legal costs as part of pursuing their claim is usually entitled to a contribution to their legal costs from the unsuccessful party. Here, the Labour Inspector was successful against 4S Hospitality Limited and Kuljinder Singh Sidhu. There is no reason to depart from standard principle so the Labour Inspector is entitled to costs against them both.

[6] Gurvinder Singh Sidhu and Amardeep Singh successfully defended the claims against them but have not sought costs.

Fixing the amount of costs

[7] The Labour Inspector seeks costs in accordance with the Authority's standard daily tariff approach, based on an investigation meeting for two days.

[8] The investigation meeting was adjourned early on the second day, then continued on a third day. Overall, the meeting lasted less than two full days due to the respondents' limited engagement in the process. However, I accept that substantial time was required to prepare bundles and evidence and for an investigation meeting that was originally scheduled to take three days.

[9] Setting costs at daily tariff for two days is consistent with the principles that costs in the Authority will be modest and should not be used to punish or express disapproval with a party's conduct. The daily tariff would be \$8,000.00.

[10] The Labour Inspector also seeks to recover the cost of her application fee (\$71.56). It is appropriate to add that to the costs order.

[11] Gurvinder Singh Sidhu and Kuljinder Singh Sidhu ask that penalties be reduced and to pay in instalments. Mention is made of the value of board and lodging provided but not charged for, admission of errors and a willingness to try to resolve matters, their view that the employee took advantage of the system and their personal circumstances which they say make it difficult to pay the sums ordered. Amardeep Singh confirms some of these points.

[12] The level of penalties and the amount of arrears were resolved by the earlier determination and do not remain open for the Authority to reconsider. There is no documentary material or evidence before the Authority that could lead me to reduce the level of costs or to order payment by instalments.

[13] I set costs in favour of the Labour Inspector at \$8,071.56.

Conclusion and order

[14] The Labour Inspector asks for costs against the first and fourth respondents jointly and severally, leaving the respondents to apportion the amount between themselves as they see fit.

[15] There is no compelling reason for the Authority to apportion costs between 4S Hospitality Limited and Kuljinder Singh Sidhu. It is appropriate for costs to be ordered jointly and severally.

[16] 4S Hospitality Limited and Kuljinder Singh Sidhu are to pay to the Labour Inspector costs of \$8,071.56 within 28 days of this determination.

Philip Cheyne
Member of the Employment Relations Authority