

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

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

[2023] NZERA 88
3169762

BETWEEN PAUL LAURSEN
Applicant

AND COLDRITE REFRIGERATION
& AIR CONDITIONING
LIMITED
Respondent

Member of Authority: Michael Loftus

Representatives: Michael McAleer, advocate for the Applicant
Doug Abraham, advocate for the Respondent

Submissions Received: 7 February 2023 from the Applicant
27 February 2023 from the Respondent

Date of Determination: 27 February 2023

COSTS DETERMINATION OF THE AUTHORITY

[1] On 7 February 2023 I issued a determination in which I concluded Mr Laursen had a personal grievance having been unjustifiably dismissed.¹ Costs were reserved and as the successful party Mr Laursen now seeks a contribution toward those he incurred pursuing his claim.

[2] The Authority's jurisdiction to order a contribution toward a party's costs is exercised by applying well-established principles.² Those principles recognise that:

¹ *Laursen v Coldrite Refrigeration & Air Conditioning Limited* [2023] NZERA 56

² *Employment Relations Act 2000, Schedule 2, clause 15, Fagotti v Acme & Co Ltd* [2015] NZEmpC 135 and www.era.govt.nz/assets/Uploads/practice-note-2.pdf

- (a) a successful party should receive a contribution toward reasonably incurred costs and expenses;
- (b) costs should generally be modest and may not be used to punish the substantive conduct of the unsuccessful party;
- (c) the nature of a case may allow for an order that costs lie where they fall; and
- (d) the Authority may use a notional daily tariff as its starting point. From there adjustment may occur either up or down depending on the circumstances of the case. Such adjustment may be to take account of settlement offers, particularly “calderbanks,” the financial means of the liable party and whether or not a party unnecessarily increased the costs incurred by the other.

[3] The current tariff is \$4,500 for a one day investigation and it is that Mr Laursen seeks though there is an issue he does not address. While he asks the tariff be applied there is the fact the hearing did not last a full day. Two thirds would be closer meaning the tariff should be in the order of \$3,000.

[4] Coldrite has advised a conscious decision not to provide a costs submission. Given the absence of any argument I depart from the tariff it shall be applied.

Conclusion and Orders

[5] For the above reasons I order Coldrite Refrigeration & Air Conditioning Limited pay Paul Laursen the sum of \$3,000.00 (three thousand dollars) as a contribution toward the costs he incurred successfully pursuing his claim.

Michael Loftus
Member of the Employment Relations Authority