

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

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

[2024] NZERA 176  
3254679

BETWEEN

RAHID AMIN  
Applicant

AND

HUTT AND CITY TAXIS  
LIMITED  
Respondent

Member of Authority: Rowan Anderson

Representatives: Rahid Amin in person  
Guy Manktelow for the Respondent

Investigation Meeting: On the papers

Submissions and further information received: Up to and including 25 March 2024

Determination: 26 March 2024

---

**DETERMINATION OF THE AUTHORITY**

---

**Employment Relationship Problem**

[1] Mr Amin seeks orders requiring Hutt and City Taxis Limited (HCTL) to pay interest on compensatory and costs awards that the Authority ordered be paid by HCTL. The claim relates to the periods between the date on which the sums were due to be paid, and the dates on which they were actually paid. Mr Amin also seeks an award of costs.

[2] HCTL says that the claim is vexatious, that it should be dismissed, and claims that it should be awarded a contribution towards its costs.

## **The Authority's investigation**

[3] Rahid Amin lodged a statement of problem seeking compliance orders under s 149 of the Employment Relations Act 2000 (the Act) in relation to compensatory<sup>1</sup> and costs<sup>2</sup> orders made by the Authority. Mr Amin, on 21 February 2024, lodged an amended statement of problem seeking an order for the payment of interest in relation to sums that were initially the subject of his application for compliance orders, but amending the statement of problem such as to exclude any claim for compliance orders.

[4] The Authority held a case management conference (CMC) on 25 March 2024. The parties agreed at the CMC that the matter should be dealt with by the Authority 'on the papers' without the need for an in-person investigation meeting. It was also agreed that the Authority should determine the matter based on the material already before it without the need for further evidence or submissions.

[5] The following issues required investigation and determination by the Authority:

- (a) Should an order be made requiring HCTL to pay interest on sums ordered to be paid to Mr Amin by the Authority?
- (b) Should either party be required to contribute to the costs of representation of the other party?

[6] As permitted by s 174E of the Employment Relations Act 2000 (the Act) this determination has stated findings of fact and law, expressed conclusions on issues necessary to dispose of the matter and specified orders made. It has not recorded all evidence and submissions received.

## **Analysis and discussion**

[7] Mr Amin seeks an order requiring HCTL to pay interest in relation to the delayed payment of two sums that were the subject of orders made by the Authority. Those relevant sums and dates are set out below:

- (a) A total of \$49,196 which was the subject of orders made by the Authority on 31 August 2023 and was due to be paid by 28 September; and

---

<sup>1</sup> *Rahid Amin v Hutt and City Taxis Limited* [2023] NZERA 493, at [174].

<sup>2</sup> *Rahid Amin v Hutt and City Taxis Limited* [2023] NZERA 607, at [29].

(b) A total of \$17,571.56 which was the subject of orders made by the Authority on 17 October 2023 and was due to be paid by 14 November 2023.

[8] Mr Amin claims interest on each of the sums as between the date on which the payments were due pursuant to the orders, and the date of which payment was actually made. It is uncontentious that the payments were not made by the dates ordered. At least in respect of the compensatory sums, payment was made following the initiation of liquidation proceedings. Both payments were ultimately made late, on 25 January 2024 and 31 January 2024 respectively.

[9] The total of the interest claimed is \$1,141.99. Mr Amin has calculated that sum using the Ministry of Justice civil debt interest calculator.

[10] HCTL opposes the orders sought on the basis that Mr Amin is now seeking a remedy that is different to that sought in the substantive application, on the basis that it is an abuse of process, on the basis that the claim is vexatious, and on the basis that the Authority should not exercise its discretion to make an award of interest in the circumstances. HCTL submits that it should be awarded costs in the sum of \$450.00.

[11] Clause 11 of Schedule 2 of the Act gives the Authority a discretionary power to award interest and provides as follows:

**11 Power to award interest**

- (1) In any matter involving the recovery of any money, the Authority may, if it thinks fit, order the inclusion, in the sum for which judgment is given, of interest, calculated in accordance with Schedule 2 of the Interest on Money Claims Act 2016, on the whole or part of the money for the whole or part of the period between the date when the cause of action arose and the date of payment in accordance with the determination of the Authority.
- (2) Without limiting the Authority's discretion under subclause (1), in deciding whether to order the inclusion of interest, the Authority must consider whether there has been long-standing and repeated non-compliance with a demand notice....

[12] I do not consider that Mr Amin's claim now involves the recovery of money as required by clause 11. This is because the relevant sums payable by order of the Authority have now been paid and no such sum is now being sought in the Authority. The claim does not seek orders recovering such a sum, and any interest that might otherwise have been ordered cannot be "included" in a sum for which "judgment is given". There is no such sum for which judgment may now be given.

[13] As to any relevant period over which interest might be applicable, subclause (1) provides that the end date of that period is to be "...the date of payment in accordance with the determination of the Authority". The "date of payment" in my view cannot be read such as to apply to a past event where no order as to interest has previously been made.

[14] Even if I were wrong as to the power to award interest, I would have declined to award interest having regard to all the circumstances including those required to be considered by subclause (11)(2) of Schedule 2 of the Act. The delay in payment was not inconsequential and such delay should not have occurred. Further, some significant degree of inconvenience and effort was required by Mr Amin to secure the payments that were required to be made some months earlier than they were. However, ultimately the full sums due, which were not insubstantial, were paid within approximately four and two months respectively and I am not satisfied that there was any long-standing non-compliance.

[15] I conclude that clause 11 of Schedule 2 does not confer on the Authority a power to award interest in the circumstances claimed by Mr Amin. I would in any event have declined to make an award of interest.

### **Conclusion**

[16] The application is unsuccessful, and I decline to make any order as to the payment of interest.

### **Costs**

[17] Mr Amin seeks costs of \$599.78 and provided a breakdown of the costs he incurred by reference to an invoice from counsel dated 6 December 2023. HCTL claim costs of \$450.00 pursuant to c 12A(2) of Schedule 2 to the Act. The basis for the calculation of that sum was not detailed.

[18] The costs claimed by Mr Amin preceded the lodgement of the amended statement of problem and the claim now made is very different to that made by way of the original statement of problem. In any event, Mr Amin has not been successful in pursuing his claim and I make no award of costs in his favour.

[19] While I have not made an award of interest as sought by Mr Amin, I do not consider that the claim made by Mr Amin is vexatious, nor do I consider that HCTL is entitled to an award of costs on that basis. The original statement of problem was lodged on reasonable grounds given that the relevant sums due had not at that time been paid. It is unsurprising that Mr Amin has taken issue with HCTL's delay in making payment. Both parties share an interest in having this matter finally disposed of.

[20] In any event, there was no investigation meeting and the parties were not required to provide the Authority with detailed witness statements or submissions. I do not consider any award of costs should be made.

[21] Costs are to lie where they fall.

Rowan Anderson  
Member of the Employment Relations Authority