

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI  
TĀMAKI MAKĀURAU ROHE**

[2024] NZERA 301  
3213559

BETWEEN	KARL YOUNG Applicant
AND	ECO PILE LIMITED First Respondent
AND	GRAEME HANNAH Second Respondent

Member of Authority: Andrew Gane

Representatives: Daniel Church, counsel for the Applicant  
No appearance for the First and Second Respondents

Investigation Meeting: On the papers

Submissions and further information received: 10 and 18 April 2024 from the Applicant

Determination: 22 May 2024

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**COSTS DETERMINATION OF THE AUTHORITY**

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**Employment relationship problem**

[1] In my determination dated 27 March 2024, I made compliance orders against Eco Pile Limited (EPL) and Graeme Hannah.<sup>1</sup>

[2] In my determination I also reserved costs and encouraged the parties to resolve any issues of costs between themselves.

[3] The parties have been unable to resolve costs.

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<sup>1</sup> *Young v Eco Pile Limited & Anor* [2024] NZERA 177.

[4] Mr Young seeks an order for costs against EPL and Mr Hannah. Mr Young seeks payment of \$2,250.00 in costs and disbursements.

[5] Mr Young's application for costs was served on EPL and Mr Hannah, but neither have responded.

[6] EPL and Mr Hannah did not participate in this matter.

### **The Authority's Investigation**

[7] This matter was determined on the papers without holding an investigation meeting.<sup>2</sup>

#### *Costs in the Authority*

[8] The power of the Authority to award costs is contained in cl 15 of sch 2 of the Employment Relations Act 2000. The principles and the approach adopted by the Authority in which an award of costs is made are settled.

#### *Costs follow the event*

[9] The usual principle for costs is that a successful party is entitled to a contribution towards their representation costs and I find there is no reason to depart from that.

#### *Application of the daily tariff*

[10] The Authority has adopted a daily tariff approach as the starting point for considering costs. This is well known, and the current daily tariff is \$4,500.00 for the first day of hearing, and \$3,500.00 for subsequent hearing days.<sup>3</sup>

[11] The parties can expect the Authority to adhere to this approach, unless there is good reason to depart from it.

[12] EPL has not put forward any argument as to why there should be a departure from the normal daily tariff rate. Mr Young has submitted that a costs award of \$2,250.00, being the equivalent of half the Authority's usual one-day tariff is reasonable.

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<sup>2</sup> Employment Relations Act 2000, s175D.

<sup>3</sup> For further information about the factors considered in assessing costs, see: [www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1](http://www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1) .

Mr Young further submits that this should be apportioned equally between EPL and Mr Hannah (\$1,125.00 each).

[13] This matter was investigated by AVL and lasted approximately half a day. Mr Young's representative spoke to the submissions. Mr Derek Gaeth, whom Mr Young sought to join as a respondent in these proceedings, appeared for himself and made oral submissions.

[14] In the circumstances of this case, I find no good reason to depart from using the daily tariff.

#### *Disbursements*

[15] Mr Young has sought a \$700 reimbursement to cover the cost of having to engage a process service to serve proceedings on both EPL and Mr Hannah. In the circumstances I grant an award of \$350 towards the cost of service and \$71.56 for the lodgement fee.

#### **Conclusion**

[16] Mr Young was the successful party and is entitled to an award of costs of \$2,250 and is also entitled to payment of \$421.56 for disbursements.

#### **Order**

[17] Eco Pile Limited and Graeme Hannah are both jointly and severally ordered to pay Karl Young \$2,250 as a contribution to his costs in this matter and disbursements of \$421.56. This is to be paid within 14 days of this determination.

Andrew Gane  
Member of the Employment Relations Authority