

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2024] NZERA 363
3249099

BETWEEN

JEREMIAS MALAQUIAS
First Applicant

TATIANE MALAQUIAS
Second Applicant

AND

AWESOME CLEANERS/DRY
CLEANERS LIMITED
Respondent

Member of Authority: Peter van Keulen

Representatives: Ruth Pettengell, advocate for the Applicant
No appearance for the Respondent

Investigation Meeting: On the papers

Submissions Received: 27 May 2024 from the Applicant
No submissions received from the Respondent

Date of Determination: 19 June 2024

COSTS DETERMINATION OF THE AUTHORITY

The substantive determination

[1] In a determination dated 2 May 2024 I found that Jeremias Malaquias and Tatiana Malaquias had been unjustifiably dismissed by Awesome Cleaners/Dry Cleaners Limited and

that both had not been paid correctly for the work they did.¹ I awarded remedies to both of them.

[2] In my determination I reserved costs; Mr and Mrs Malaquias now seek costs.

Application for costs

[3] Advocate for Mr and Mrs Malaquias seeks an award of costs on the basis of a half day investigation meeting, being \$2,250.00.

[4] Awesome Cleaners did not respond to the application for costs.

Analysis

Costs in the Authority

[5] The power of the Authority to award costs is set out at clause 15 of Schedule 2 of the Employment Relations Act 2000. The principles and approach adopted by the Authority in respect of this power are outlined in the Authority's practice note on costs.²

Costs for Mr and Mrs Malaquias

[6] Costs in the Authority will normally follow the event, that is, a successful party should be awarded costs.

[7] Mr and Mrs Malaquias were successful with their claims and are entitled to an award of costs.

Applying the daily tariff

[8] The quantum of a costs award in the Authority is usually calculated by applying the daily tariff. The daily tariff is an amount awarded for each day of an investigation meeting at

¹ *Jeremias Malaquias and Tatiana Malaquias v Awesome Cleaners/Dry Cleaners Limited* [2024] NZERA 250.

² For further information about the factors considered in assessing costs, see:

www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1.

the rate of \$4,500 for the first day of an investigation meeting and \$3,500 for every additional day.

[9] I am satisfied that the daily tariff is the correct approach to setting costs in this matter.

[10] My investigation into this matter took half of one day and therefore the quantum based on the daily tariff is \$2,250.

Adjusting the daily tariff

[11] I must consider whether the daily tariff amount should be adjusted.

[12] This matter was straight forward. Awesome Cleaners did not respond to the claims and did not attend the investigation meeting.

[13] There is no reason to adjust the daily tariff in terms of the costs Mr and Mrs Malaquias are entitled to.

Order

[14] Awesome Cleaners/Dry Cleaners Limited must pay Jeremias Malaquias and Tatiana Malaquias \$2,250.00 as a contribution to their costs in this matter.

[15] Jeremias Malaquias and Tatiana Malaquias are entitled to be paid the filing fee, so Awesome Cleaners/Dry Cleaners Limited must also pay them \$71.55.

Peter van Keulen
Member of the Employment Relations Authority