

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

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

[2024] NZERA 429  
3209659

BETWEEN	DURGESH DURGESH Applicant
AND	PRO-AUTO CARS REFINISHING LIMITED First Respondent
AND	PRANESH KARAN Second Respondent

Member of Authority: Andrew Gane

Representatives: John Wood, advocate for the Applicant  
No appearance for the First and Second Respondent

Investigation Meeting: On the papers

Submissions received: 6 June 2024 from the Applicant

Determination: 15 July 2024

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**COSTS DETERMINATION OF THE AUTHORITY**

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**Employment relationship problem**

[1] In my determination dated 22 May 2024, I found Durgesh Durgesh was owed wage arrears, sick leave, holiday pay, interest and repayment of an outstanding loan from Pro Auto Cars Limited (Pro-Auto).<sup>1</sup>

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

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<sup>1</sup> *Durgesh v Pro-Auto Cars Refinishing Limited & Anor* [2024] NZERA 302.

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

[4] Mr Durgesh seeks an order for costs against the first respondent, Pro-Auto. Mr Durgesh seeks payment of \$4,500.00 in costs and disbursements.

[5] Mr Durgesh's application for costs was served on Pro-Auto. It has not responded.

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

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

### **Analysis**

#### *Costs in the Authority*

[7] 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*

[8] 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*

[9] 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>

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

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<sup>2</sup> Employment Relations Act 2000, s174D.

<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) .

[11] Mr Durgesh has submitted that a costs award of \$4,500.00, being the Authority's usual one-day tariff, is reasonable for the time of the hearing and the time taken to prepare the final submissions.

[12] Pro Auto has not put forward any argument as to why there should be a departure from the normal daily tariff rate.

[13] This matter was investigated in person and lasted approximately a day. Mr Durgesh's representative and Pro Auto's representative later lodged submissions with the Authority.

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

### **Conclusion**

[15] Mr Durgesh was the successful party and is entitled to an award of costs of \$4,500 and is also entitled to payment of and \$71.56 for the lodgement fee.

### **Order**

[16] Pro Auto Cars Limited is ordered to pay Durgesh Durgesh \$4,500 as a contribution to his costs in this matter and disbursements of \$71.56. This is to be paid within 14 days of this determination.

Andrew Gane  
Member of the Employment Relations Authority