

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2024] NZERA 469
3233099

BETWEEN VONETTE CHERRY
Applicant

AND HOKITIKI RIMU TREE TOP
WALK LIMITED
PARTNERSHIP
Respondent

Member of Authority: Helen Doyle

Representatives: Laurie Knight, counsel for the Applicant
Shane Abel, for the Respondent

Submissions Received: 28 March 2024 from the Applicant
No submission received from the Respondent

Date of Determination: 2 August 2024

COSTS DETERMINATION OF THE AUTHORITY

The substantive determination

[1] In a substantive determination dated 1 July 2024 the Authority found Vonette Cherry was owed a profit share bonus for three years. A personal grievance for unjustified disadvantage was made out but the claim for unjustified constructive dismissal was unsuccessful. Awards were made for payment of a profit share bonus together with compensation.¹ The parties were encouraged to resolve any issue of costs themselves. Ms Knight made submissions about costs in her original substantive submissions. Mr Abel was given 14 days to reply in the substantive determination if the parties were unable to resolve costs.

¹ *Vonette Cherry v Hokitika Rimu Tree Top Walk Limited Partnership* [2024] NZERA 387.

[2] Ms Knight advised the Authority on 12 July 2024 that agreement had not been reached as to costs. Mr Abel was given until 26 July 2024 to lodge and serve any cost submission on behalf of Hokitika Rimu Tree Top Walk Limited Partnership (the Partnership).

[3] No submission has been received on behalf of the Partnership. Ms Knight has asked on behalf of Mrs Cherry that costs be determined.

Applicant's legal submissions

[4] In final submissions Ms Knight asked on behalf of the applicant for costs based on the standard tariff of \$4,500.00 for the first day of the investigation meeting and \$1,750.00 for the second half day of the investigation meeting.

[5] An uplift is sought on the basis that a significant amount of time was required to respond to "unsubstantiated and malicious allegations" against the applicant that were irrelevant to the key issue.

Conclusion

[6] The Authority investigation meeting was a day and a half. Mrs Cherry was not entirely successful but is entitled to consideration of a contribution towards her costs. I accept Ms McKnight's submission that Mrs Cherry has incurred additional costs responding to several serious allegations advanced on behalf of the Partnership which were not found to be subsequently discovered misconduct or contribution.

[7] In the exercise of my discretion as to costs I take into account that Mrs Cherry was not entirely successful.

[8] I conclude that a fair and reasonable award of costs is the sum of \$6,250.00. This is based on a daily tariff of \$4,500 for the first full day and half of the \$3,500 daily tariff for the second half day which is \$1,750. Mrs Cherry is entitled to reimbursement of the filing fee of \$71.55.

Order

[9] I order Hokitika Rimu Tree Top Walk Limited Partnership to pay to Vonette Cherry the sum of \$6,250 together with reimbursement of the filing fee of \$71.55.

Helen Doyle
Member of the Employment Relations Authority