

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI  
ŌTAUTAHI ROHE**

[2024] NZERA 655  
3272039

BETWEEN JANE ANGEL TEARA  
BORIBOON  
Applicant

AND LOCTUN DELUXE NAIL &  
BEAUTY SALON LIMITED  
Respondent

Member of Authority: Sarah Kennedy-Martin

Representatives: Kevin Murray, Advocate for the Applicant  
No appearance for the Respondent

Submissions and information received: Up to 8 August 2024

Determination: 5 November 2024

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**COSTS DETERMINATION OF THE AUTHORITY**

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[1] In a determination dated 5 September 2024 the Authority found that Jane Boriboon was successful with her personal grievance claims and she was awarded compensation, wage arrears and Loctun Deluxe Nail & Beauty Salon Limited (LDNBSL) was ordered to pay a penalty.<sup>1</sup> The Authority reserved the issue of costs and encouraged the parties to resolve the issue between them. They have been unable to do so. The Authority has received submissions from Ms Boriboon. No submissions were received from LDNBSL.

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<sup>1</sup> [2024] NZERA 531.

## **Submissions**

[2] Ms Boriboon says LDNBSL has not accepted her offer of costs following the determination. Ms Boriboon was successful on all matters. Submissions were made on Ms Boriboon's behalf seeking an uplift to the daily tariff because:

- (a) LDNBSL failed to engage in any part of the process; and
- (b) LDNBSL, by failing to engage, raised the cost of representation and caused an in-person hearing to be required; and
- (c) Information was requested by the Authority and Ms Boriboon and it was not provided by LDNBSL.

[3] The investigation meeting lasted just over half a day and Ms Boriboon seeks an uplift of \$2,250.00 bringing the total to \$4,500.00. Airfares in the amount of \$345.60 were also sought as a disbursement on the basis of LDNBSL's failure to be responsive and communicative prior to the investigation meeting. This meant there was no opportunity for early resolution and an investigation meeting became inevitable.

## **Costs**

[4] Costs are a matter of discretion.<sup>2</sup> The discretion is to be exercised in accordance with principle and not arbitrarily. The main principle in the exercise of the discretion is that costs follow the event. If a party is successful, they will be entitled to an award of costs. Ms Boriboon was successful in bringing her personal grievance and wage arrears claims set out in her statement of problem.

[5] The starting point for costs based on the Authority's daily tariff is \$4,500.00. From that starting point the Authority can consider whether there are factors justifying an increase or decrease in costs.

[6] I am unwilling to make an order for flights because it was Ms Boriboon's choice to engage a representative outside of the location where the employment occurred. I

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<sup>2</sup> Employment Relations Act 2000, clause 15, schedule 2.

consider an appropriate award of costs to be \$4,500.00 representing a one-day investigation meeting because the meeting took just over half a day.

### **Orders**

[7] I order Loctun Deluxe Nail & Beauty Salon Limited to pay to Jane Angel Teara Boriboon \$4,500.00 as a contribution to her legal costs.

Sarah Kennedy-Martin  
Member of the Employment Relations Authority