

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2024] NZERA 728
3177249

BETWEEN	A LABOUR INSPECTOR Applicant
AND	A W & B L MUDALIAR & CO LTD First Respondent
AND	AVINESH MUDALIAR Second Respondent
AND	BIDYA MUDALIAR Third Respondent

Member of Authority:	Eleanor Robinson
Costs Submissions:	12 November 2024 from the Applicant None from the Respondent
Determination:	06 December 2024

COSTS DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] In a determination dated 15 October 2024 ([2024] NZERA 616) it was determined that the First Respondent owed arrears of annual and public holiday entitlements to the Applicant, A Labour Inspector, in respect of a number of employees.

[2] It was also determined that penalties were appropriate against the First, Second and Third Respondents in respect of breaches of employment standards.

[3] It was further determined that the Respondents did not impose employment premium payments.

[4] In that determination costs were reserved in the hope that the parties would be able to settle this issue between themselves. Unfortunately they have been unable to do so, and the Applicant is seeking a contribution to costs.

[5] The investigation meeting involved a two day investigation meeting.

[6] Mr Hilario, on behalf of the Labour Inspector, is seeking a contribution to costs at the daily notional tariff rate in the Authority of \$8,000.00. Mr Hilario submits that a 25 percent discount should apply to that amount to reflect the mixed success of the parties.¹

Costs Award

[7] It is a principle set out in *PBO Limited (formerly Rush Security Ltd) v Da Cruz*² that costs are modest. Principles also include that costs are reasonable and that they normally follow the event.

[8] I see no reason for not applying these principles in this case. The Labour Inspector was the successful party in the matter.

[9] Costs in the Authority are made in accordance with a daily tariff amount which is currently set at \$8,000.00 for a two day hearing.

[10] I consider it appropriate to base the level of costs on the normal tariff in the Authority as at the date of filing with the 25 percent deduction applied to reflect the mixed success of the parties in this matter.

[11] **Accordingly A W & B L Mudaliar & Co Limited is ordered to pay the Labour Inspector the sum of \$6,000.00 towards his legal costs, pursuant to clause 15 of Schedule 2 of the Act.**

Eleanor Robinson
Member of the Employment Relations Authority

¹ *Coomer v JA McCallum & Son Ltd* [2017] NZEmpC 156.

² *PBO Limited (formerly Rush Security Ltd) v Da Cruz* [2005] 1 ERNZ 808.