

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2024] NZERA 80
3232039

BETWEEN TOM McNALLY
Applicant

AND DEEYA INVESTMENTS
LIMITED t/a PEEL TO PIP
CAFÉ
Respondent

Member of Authority: Eleanor Robinson

Costs Submissions: 23 January 2024 from the Applicant
None from the Respondent

Determination: 13 February 2024

COSTS DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] In a determination dated 19 October 2023 ([2023] NZERA 614) it was determined that the Applicant, Tom McNally, had been unjustifiably dismissed by the Respondent, Deeya Investments Limited t/a Peel to Pip Café.

[2] 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.

[3] The investigation meeting involved less than half a day investigation meeting.

[4] Mr Kerjes, on behalf of Mr McNally, cites actual costs of \$6,706.29 including GST.

[5] Mr McNally is seeking a contribution to his actual costs in the sum of \$1,125.00, plus the Authority filing fee of \$71.56.

[6] No submissions on costs have been received from Deeya Investments Limited.

Costs Award

[7] It is a principle set out in *PBO Limited (formerly Rush Security Ltd) v Da Cruz*¹ 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. Mr McNally 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 \$4,500.00 for the first day of hearing.

[10] The investigation meeting was conducted by Audio Visual Link and was of a short duration since Mr McNally was the only person providing evidence, and the facts of the situation which had resulted in the termination of his employment were succinct and not complex.

[11] I consider it appropriate to base the level of costs on the normal tariff in the Authority as at the date of filing and to take a quarter day of an investigation meeting as the appropriate measure.

[12] **Accordingly Deeya investments Limited is ordered to pay Mr McNally the sum of \$1,125.00 towards his legal costs, pursuant to clause 15 of Schedule 2 of the Act.**

[13] **Deeya investments Limited is also ordered to pay McNally \$71.56 in respect of the Authority filing fee.**

Eleanor Robinson
Member of the Employment Relations Authority

¹ [2005] 1 ERNZ 808