

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2025] NZERA 135
3246039

BETWEEN SHAHIDUL (JOHNY) ISLAM
Applicant

AND ELECSYS LAB LIMITED
First Respondent

AND PREMJIT TARAFDAR
Second Respondent

AND SHILPA TARAFDAR
Third Respondent

Member of Authority: Lucia Vincent

Representatives: Applicant in person
Premjit Tarafdar for First Respondent
Second and Third Respondents in person

Investigation Meeting: On the papers

Submissions Received: 4 October and 9 December 2024 from the Applicant
3 and 8 October and 2 December 2024 from the
Respondents

Determination: 5 March 2025

COSTS DETERMINATION OF THE AUTHORITY

What is the employment relationship problem?

[1] The Authority determined on 13 September 2024 that Mr Islam had been unsuccessful in his claim of being an employee of Elecsys Lab Limited (Elecsys). He also did not succeed in his related claims and remedies against the respondents.¹

[2] Although costs would not normally be awarded when the parties have represented themselves at the investigation meeting, the Authority offered the

¹ *Islam v Elecsys Lab Limited & Ors* [2024] NZERA 553.

opportunity for the parties to lodge memoranda if any issue as to costs remained and they were unable to resolve it between themselves. They have asked the Authority to resolve the issue of costs for them.

Cost principles

[3] Clause 15 of Schedule 2 of the Employment Relations Act 2000 (Act) gives the Authority discretion to order any party to a matter to pay to another party such costs and expenses as the Authority thinks reasonable.

[4] If unsuccessful, a party will usually have to contribute to the legal costs of the successful party, as well as meeting their own costs.

[5] The daily tariff applied by the Authority sets the starting point from which relevant factors and principles may guide an upward or downward adjustment of the amount of costs awarded. Practice Note 2 for the Authority sets the current tariff for costs at \$4,500 for the first day of any matter.²

[6] The Employment Court has endorsed the average daily tariff approach of the Authority and relevant principles governing costs in the Authority.³ These include considering whether the conduct of the parties increased costs unnecessarily (warranting an adjustment up or down), without compromising the Authority's otherwise modest approach to costs.⁴

Submissions

[7] In a memorandum on costs dated 3 October 2024, the respondents sought \$12,000 in costs. This included a claim for three days of the tariff totalling \$11,500 and witness travel and miscellaneous expenses of \$500. The Authority was not provided with any invoices or other documents supporting the claims. In a memorandum dated 8 October 2024 the respondents also asked for an apology from Mr Islam.⁵

[8] The respondents lodged further information on 2 December 2024 to support their claim for expenses. This included information about the following expenses:

² See: <https://www.era.govt.nz/assets/Uploads/practice-note-2.pdf>.

³ *PBO Limited (formerly Rush Security Limited) v Da Cruz* [2005] ERNZ 808 at [43-47] and *Fagotti v Acme & Co Ltd* [2015] NZEmpC 135 at [108].

⁴ *PBO*, above n 3, at [43-47].

⁵ The Authority cannot order an apology as a remedy under s 123 of the Act. Nor can it order an apology as part of an order for costs.

- (a) Parking expenses:
 - (i) \$12.60 on 15 June 2023;
 - (ii) \$9.80 on 15 December 2023;
 - (iii) \$20.60 on 30 April 2024;
 - (iv) \$20.60 on 1 May 2024; and
 - (v) \$16.60 on 13 June 2024;
- (b) Petrol purchased on 30 April 2024 of \$85.95; and
- (c) Printer cartridges for printers used for printing material related to proceedings:
 - (i) \$74.40 on 30 May 2023; and
 - (ii) \$79.80 on 31 May 2023.

[9] In a memorandum dated 4 October 2014 Mr Islam referred to the Authority's determination that recorded that costs would not normally be awarded because the parties represented themselves at the investigation meeting. He also referred to the Authority's website that says a contribution of costs is generally awarded to a successful party who has engaged professional representation but not for someone's time and trouble in preparing their case and attending the investigation meeting.⁶ Mr Islam rejected that any printing expenses were incurred, among other things.

Conclusion on costs

[10] As noted in the Authority's determination, the parties represented themselves at the investigation meeting - costs would not normally be awarded. Costs may be considered where a party has incurred costs in seeking legal advice at an earlier stage in preparing for proceedings. No such claim for costs has been made. I understand this is because the respondents did not incur any such costs.

[11] I decline to award Elecsys costs for representing itself as a party. I also decline to award Mr and Mrs Tarafdar costs for appearing in person as a party or as a representative of Elecsys (including as a director or shareholder).

[12] Turning to the claim for expenses, again, I have reservations about awarding expenses related to preparing for and attending an investigation meeting as a party. In

⁶ [Awarding remedies and costs | Employment Relations Authority](#)

addition, it is difficult to quantify the percentage of petrol and printer cartridge expenses that related to the proceedings, when both these things were used in the course of business or for personal use.

[13] The expenses that are clearly identifiable and I find reasonably related to the proceedings are three parking expenses from the days of the investigation meeting:⁷

- (i) \$20.60 on 30 April 2024;
- (ii) \$20.60 on 1 May 2024; and
- (iii) \$16.60 on 13 June 2024;

[14] I order Mr Islam to pay Elecsys a total of \$57.80, within 28 days of the date of this determination.

[15] The parties represented themselves in relation to this costs matter. I make no order for costs in addition to that outlined in this determination.

Lucia Vincent
Member of the Employment Relations Authority

⁷ I do not accept parking expenses from 2023 related to the investigation meeting in 2024.