

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

**I TE RATONGA AHUMANA TAIMAHI  
TE WHANGANUI-A-TARA ROHE**

[2025] NZERA 242  
3249599

BETWEEN	ANGHARAD O'BRIEN Applicant
AND	THE PLATFORM MEDIA NZ LIMITED Respondent

Member of Authority:	Rowan Anderson
Representatives:	Barbara Buckett, counsel for the Applicant Michael O'Brien, counsel for the Respondent
Investigation Meeting:	On the papers
Submissions received:	4 March 2025 from Applicant 29 April 2025 from Respondent
Determination:	2 May 2025

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**COSTS DETERMINATION OF THE AUTHORITY**

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**Background and submissions**

[1] On 4 February 2025 the Authority issued a determination<sup>1</sup> in which I found that Ms O'Brien had been unjustifiably dismissed from her employment and was entitled to compensation for humiliation, loss of dignity, and injury to feelings.

[2] Costs were reserved. The parties have not been able to agree on costs, and Ms O'Brien now asks the Authority for orders as to the costs she incurred in pursuing her claims against The Platform Media NZ Limited (The Platform).

[3] Ms O'Brien seeks a total contribution towards her costs in the sum of \$8,000. This is said to be based on a daily tariff contribution totalling \$6,250, GST of \$937.50

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<sup>1</sup> *Angharad O'Brien v The Platform Media NZ Limited* [2025] NZERA 57.

on the tariff sum, disbursements of \$71.55, and \$500 to \$1,000 as an uplift sought based on the basis that the respondent failed to engage with Ms O'Brien's proposal to resolve costs.

[4] The Platform submits that any award of costs to Ms O'Brien should be reduced from the tariff of \$6,250 to \$3,000 based on some of Ms O'Brien's claims being unsuccessful and other actions it contends unnecessarily increased The Platform's costs. The Platform rejects the uplift claimed by Ms O'Brien and any award of costs as to the issue of costs, and the uplift claimed relating to GST.

### **Costs principles**

[5] The Authority has discretion to award costs, may order any party to pay costs and expenses as it thinks reasonable, and may apportion such costs and expenses between the parties as it thinks fit.<sup>2</sup>

[6] The principles as to the exercise of that discretion are well known, including that costs will generally follow the event, that awards will be modest, that Calderbank offers may be taken into account, and that costs are not to be used as a punishment or as an expression of disapproval of the unsuccessful party's conduct.<sup>3</sup>

[7] The daily tariff is usually taken as a starting point,<sup>4</sup> although not used in a rigid manner, with principled adjustments made having regard to the particular characteristics of a case.

### **Consideration**

[8] Ms O'Brien was successful in pursuing her primary claims and it is appropriate that costs follow the event.

[9] The daily tariff approach would see a contribution of \$4,500 for the first day and \$1,750 for half of a the second day used for submissions, the total being \$6,250. Both parties approached submissions using the sum of \$6,250 and I am satisfied that is the appropriate starting point.

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

<sup>3</sup> *PBO Limited (formerly Rush Security Limited) v Da Cruz* [2005] ERNZ 808 at [44] to [46].

<sup>4</sup> Employment Relations Authority Practice Direction, August 2023, <https://www.era.govt.nz/assets/Uploads/practice-direction-of-era.pdf>

[10] Ms O'Brien was entitled to pursue her claims. I do not consider a decrease in the tariff is appropriate on the basis that Ms O'Brien was only partially successful, nor on the basis that she withdrew claims for reinstatement and non-publication or having regard to what was said to be a failure to provide information relevant to lost income. I am also not satisfied that any of those factors meaningfully increased the time required for the investigation meeting or the costs to The Platform such as would warrant a departure from the daily tariff. Standing back and looking at the matter, those factors likely limited the time required and are inherently claims that may change during proceedings.

[11] I am also not satisfied that an uplift to the daily tariff is appropriate. While parties are encouraged to resolve costs themselves, I do not consider what would in effect be an award of costs on costs appropriate. Having regard to the different approaches taken in submissions I consider it likely the Authority would in any event have been required to determine the issue and I am not satisfied that unnecessarily increased costs have been incurred.

[12] Costs in the Authority are GST neutral and I decline to award any uplift on based on an absence of Ms O'Brien being GST registered.

[13] I decline to depart from the starting point indicated by the daily tariff.

[14] Ms O'Brien is also entitled to reimbursement of the \$71.55 filing fee having been successful in pursuing her primary claims.

### **Orders**

[15] I order The Platform Media NZ Limited to pay Ms O'Brien, within 28 days, the sum of \$6,250 as a contribution towards the costs she incurred in pursuing her claims, and \$71.55 as reimbursement of the filing fee.

Rowan Anderson  
Member of the Employment Relations Authority