

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

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

[2025] NZERA 278
3251119

BETWEEN A LABOUR INSPECTOR
Applicant

AND NODLH LIMITED (T/A
NOODLE CANTEEN LOWER
HUTT)
Respondent

3251839

BETWEEN A LABOUR INSPECTOR
Applicant

AND JTJ INTERNATIONAL LIMITED
(T/A WHERE'S CHARLIE
THORNDON QUAY)
Respondent

Member of Authority: Sarah Kennedy-Martin

Representatives: Petrina Siania, counsel for the Applicant
No appearance for the Respondents

Investigation Meeting: On the papers

Submissions Received: 3 March 2025 from the Applicant

Determination: 16 May 2025

DETERMINATION OF THE AUTHORITY

[1] On 19 April 2024, the Authority issued a determination finding that NODLH Limited (NODLHL) and JTJ International Limited (JTJIL) had not complied with improvement notices issued by the Labour Inspector.¹ Compliance was ordered by the Authority.

¹ *A Labour Inspector v NODLH Limited and JTJ International Limited* [2024] NZERA 225.

[2] On 3 February 2025, the Authority issued its determination in respect of penalties awarded against both respondents.² The issue of costs was reserved on both matters. The Labour Inspector has made an application for an award of costs equivalent to a half day at the daily tariff rate (\$2,250.00) and reimbursement of the Authority filing fee (\$71.56).

[3] The respondents have not engaged with any of these proceedings and did not respond to the Authority in relation to this application for costs. These have been heard together because both companies have the same sole director and shareholder.

[4] An award of costs should constitute a reasonable contribution to costs actually and reasonably incurred in obtaining professional representation and reasonable disbursements. Costs are a matter of discretion with the main principle being that costs follow the event meaning if a party is successful they can be entitled to an award of costs. It is also recognised that the use of in-house solicitors gives rise to a “real cost” and provides a basis for an award of a contribution to legal costs.³

[5] The Labour Inspector was successful in bringing its applications for compliance and penalties and is therefore entitled to consideration of an award of costs. The starting point for costs based on the Authority’s daily tariff is \$4,500.00 for the first day. From that starting point the Authority can consider whether there are factors justifying an increase or a decrease.

[6] The matters were all heard on the papers but both required separate applications and submissions to be lodged. Given the costs award is in relation to two applications, a compliance order and then a separate penalty application after the Authority adjourned its consideration of penalties, I consider an award of costs is appropriate.

[7] I accept the submission that the amount sought is less than the actual costs incurred and agree that \$2,250.00 would constitute a reasonable contribution to the Labour Inspectors’ costs. It is also appropriate that the filing fee of \$71.56 is reimbursed.

² *A Labour Inspector v NODLH Limited and JTJ International Limited* [2025] NZERA 52.

³ See for example *Smith v Air New Zealand* EMC Auckland AC 17/01, 19 March 2001 Employment Court, Auckland, *Labour Inspector v Civic City & Ors* [2013] NZERA Auckland 493, *Caisteal An Ime Ltd v Labour Inspector of the Ministry of Business, Innovation and Employment* [2024] NZEmpC 83 and *McGuire v Secretary for Justice* [2018] NZSC 116, [2019] 1 NZLR 335 at [88].

Orders

[8] JTJ International Limited and NODLH Limited are each to pay the Labour Inspector one half of \$2,321.56 within 20 days of this determination.

Sarah Kennedy-Martin
Member of the Employment Relations Authority