

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2025] NZERA 386
3295819

BETWEEN VIKASH SHARMA
Applicant

AND CHAUHAN NZ LIMITED
First Respondent

AND ANKUR CHAUHAN
Second Respondent

AND MITU SHARMA
Third Respondent

Member of Authority: Lucia Vincent

Representatives: Vana Vadiveloo, counsel for the Applicant
No appearance for the Respondents

Investigation Meeting: On the papers

Submissions Received: 24 June 2025 from the Applicant
No submissions from the Respondents

Determination: 02 July 2025

COSTS DETERMINATION OF THE AUTHORITY

What is the employment relationship problem?

[1] On 17 June 2025 the Authority determined that Chauhan NZ Limited (CNZ) unjustifiably dismissed Mr Sharma and obtained unlawful premiums from him through its directors Mr Chauhan and Ms Sharma.¹ The Authority found Mr Chauhan and Ms Sharma were persons involved for the purposes of enforcing any employment standards breaches. Substantial remedies were awarded.

¹ *Sharma v Chauhan NZ Limited & Ors* [2025] NZERA 346.

[2] Costs were reserved. If the parties could not agree on costs, then the Authority invited the parties to lodge memoranda. Mr Sharma's counsel has done so. The respondents have not engaged.

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.

[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 24 June 2025, Mr Sharma sought an award of costs totalling \$12,178.25 including disbursements of \$2,776.53 plus the filing fee.

[8] In support of his claim for costs Mr Sharma's counsel says:

- (a) Costs are significantly more than the half day tariff that would normally be awarded of \$2,250 plus reimbursement of the filing fee of \$71.55.

² Practice Direction of the Employment Relations Authority

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

⁴ *PBO*, above n 3, at [43-47].

- (b) Circumstances warrant an uplift given the time and effort spent by legal counsel being significantly increased due to the lack of constructive engagement from the respondents.
- (c) Although Mr Sharma is not required to repay his legal aid grant currently, he may be required to make a final payment if he receives any proceeds from proceedings.

[9] The respondents have not engaged on the costs matter despite being served with a copy of the determination and costs submissions from the applicant.

Conclusion on costs

[10] Although Mr Sharma has not yet been required to make any payment of costs to the Commissioner, it is likely he will be required to if he recovers the proceeds of proceedings through enforcement action. Although legally aided, a party is still entitled to recover costs against a respondent.⁵

[11] I am satisfied it is appropriate in these circumstances to make an order for costs, but not to the extent of what would effectively be indemnity costs sought by Mr Sharma.

[12] The investigation meeting for this matter took half a day. Mr Sharma and other witnesses attended by AVL. Mr Sharma's counsel attended in person. Further information was timetabled by agreement following the investigation meeting.

[13] The lack of engagement from the respondents resulted in some additional work. There was further information provided after the investigation meeting. I am satisfied these factors warrant a modest uplift of \$500.00 to the half day tariff of \$2,250.00.

[14] Having considered all the circumstances, I award an amount of \$2,750.00 to Mr Sharma by way of costs, plus his filing fee of \$71.55 as an expense and reimbursement of disbursements totalling \$2,776.53 for witness and travel costs related to proceedings.

[15] I find the respondents jointly and severally liable for costs.

⁵ *Curtis v Commonwealth of Australia* [2019] NZCA 126 from [14] to [24]. Applied in *Kongbang v Lotus Touch Ltd* [2025] NZEmpC 18.

Order

[16] I order Chauhan NZ Limited, Mr Chauhan, and Ms Sharma, jointly and severally, to pay Mr Sharma within 28 days of the date of this determination:

- (a) costs of \$2,750.00;
- (b) reimbursement of disbursements totalling \$2,776.53; and
- (c) reimbursement of his filing fee of \$71.55.

Lucia Vincent
Member of the Employment Relations Authority