

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2025] NZERA 538
3304040

	BETWEEN	LJT Applicant
	AND	MKP LIMITED First Respondent
	AND	NHR Second Respondent
Member of Authority:	Helen van Druten	
Representatives:	Applicant in person Eddie Taia, counsel for both Respondents	
Submissions received:	Up to 10 July 2025 from the Applicant On 24 July 2025 from both Respondents	
Investigation Meeting:	19 March 2025 at Auckland	
Determination:	28 August 2025	

COSTS DETERMINATION OF THE AUTHORITY

Non-publication

[1] This costs determination is issued subsequent to the costs determination [2025] NZERA 538 issued on 28 August 2025. That determination is removed from the Authority website.

[2] In accordance with the interlocutory judgment of the Court on 22 December 2025, all names and identifying details of the parties are removed from this costs determination and prohibited from publication.¹ Accordingly, a random generator has been used to refer to the parties in these proceedings and does not resemble specific names.

¹ [2025] NZEmpC 282 at [31].

Employment relationship problem

[3] By determination dated 19 June 2025, the Authority found that LJT was unjustifiably dismissed and MKP Limited was ordered to pay LJT \$10,500 compensation pursuant to s 123(1)(c)(i) of the Employment Relations Act 2000 (the Act). MKP Limited was also ordered to pay LJT his notice period and wage arrears. No order was made against NHR as Second Respondent.²

[4] In accordance with the determination in relation to costs, MKP Limited was ordered to pay:³

- (a) the Authority filing fee of \$71.55 to LJT; and
- (b) LJT's legal costs up to the value of \$4,500 to his official assignee.

[5] In relation to legal costs the determination specified that:⁴

“... upon receipt of an invoice evidencing the amount paid by LJT, MKP Limited is ordered to pay LJT's professional legal costs incurred in May 2024 relating to this matter to his official assignee (as notified by LJT) up to the value of \$4,500 (including GST).”

[6] Other costs were reserved in the event that the parties would be able to settle these between themselves. They have been unable to do so and as LJT seeks disbursements and an uplift in costs, an Authority determination on costs is required.

Cost application and submissions

[7] The original application for costs was submitted by LJT on 19 March 2025. On 10 July 2025, LJT confirmed with the Authority that this remained his application for costs.

[8] In his cost application, LJT claimed \$1,414.50 as contribution to his legal costs. He has provided the Authority and MKP Limited with confirmation of this payment to the law firm from his bank account. It is understood that this amount has recently been paid therefore requires no further consideration by the Authority.

[9] In its submissions, MKP Limited referred to another invoice for \$8,545.94 legal costs sent from LJT following the Authority determination. MKP Limited submitted

² *LJT v MKP and Anor* [2026] NZERA 5.

³ Above at [97] and [98].

⁴ Above at [97].

that it never received confirmation from LJT that this invoice was paid and therefore it should be disregarded.

[10] LJT also seeks disbursements for printing costs of \$355.35. He correctly no longer claims further legal costs for representing himself at the investigation meeting.

[11] MKP Limited submits that LJT seeks double recovery of the Authority filing fee. LJT agreed and subsequently withdrew this portion from his costs claim. MKP Limited further submits that the Authority has not previously awarded disbursements other than the filing fee so printing costs should be disallowed.

Assessment

The Authority's costs approach

[12] The Authority's discretion to award costs is well established and arises from Section 15 of Schedule 2 of the Act. The discretion to order a party to pay costs to another must be exercised on a principled basis and awards made consistent with the Authority's equity and good conscience jurisdiction. Those principles are well settled and are outlined in the Authority's Practice Note,⁵ and Practice Direction,⁶ both publicly available online.

[13] Informing the Authority's approach to costs is the leading decision of *PBO Limited (formerly Rush Security Ltd) v Da Cruz (Da Cruz)* where the Employment Court established key principles for the Authority to consider when determining costs.⁷ Those key principles include:

- (a) There is a discretion as to whether costs are awarded and in what amount;
- (b) The discretion is to be exercised in accordance with principle and not arbitrarily;
- (c) That costs generally follow the event;
- (d) That awards will be modest; and
- (e) That costs are not to be used as a punishment.

⁵ www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-

⁶ <https://www.era.govt.nz/assets/Uploads/practice-direction-of-the-employment-relations-authority.pdf>.

⁷ *PBO Limited (formerly Rush Security Ltd) v Da Cruz* [2005] 1 ERNZ 808.

[14] LJT has appealed the Authority determination to the Employment Court. When there is a challenge of an Authority determination to the Employment Court the Authority's usual practice is to determine costs so that the Court has the costs determination before it. I see no reason to depart from that usual practice in this matter.

Costs for LJT

[15] A starting point is that costs normally follow the event and as LJT was successful in his personal grievance and obtained a compensatory remedy, an award of costs is appropriate.

Applying the daily rate

[16] The Authority's general approach is to apply a notional daily rate and only adjust that rate if persuaded that circumstances or other factors require an upward or downward adjustment.⁸ The current full daily rate is \$4,500 for the first day of an investigation meeting.

[17] The investigation meeting took one full day and both parties fully participated in the investigation meeting.

[18] LJT initially claimed less than the \$4,500 provided for in the Authority determination for legal costs. He has since provided an additional invoice from his previous lawyer of \$8,545.94 that he has provided to MKP Limited for payment. However, this additional invoice is to be disregarded as LJT has not included the additional invoice in his submission to the Authority dated 10 July 2025. As noted above, LJT reconfirmed that submission where legal costs of \$1,414.50 only were being sought and nothing more. In addition, MKP Limited says that it has not received evidence of payment by LJT of the new invoice in the amount of \$8,545.94.

[19] Notwithstanding the right to appeal, it is important for the parties to have resolution of the employment relationship problem including costs.

[20] The Authority's guide to awarding costs specifically allows "reasonable disbursements, for example photocopying costs, the costs of telephone calls and witness

⁸ For further information about the factors considered in assessing costs, see: <https://www.era.govt.nz/determinations/awarding-costs-remedies/>.

expenses”. LJT’s claim for photocopying is significant but reasonable in the circumstances and the bundle assisted the Authority with its investigation. This cost was particularised in LJT’s original 19 March 2025 costs claim, now evidenced to the Authority and he was specifically asked by the Authority to prepare two copies of the large bundle of documents for the investigation meeting.

[21] LJT has requested an uplift of 20 percent for MKP Limited’s failure to mediate or resolve the problem. He submits that MKP Limited’s failure to communicate necessitated his hiring of a lawyer and those costs incurred. Those costs were recognised in the Authority determination. Whilst LJT maintains that MKP Limited did not proactively seek to resolve the matter therefore an uplift is justified, MKP Limited conduct impacted the time frame for resolution but did not increase the costs to LJT. MKP Limited fully participated in the investigation meeting and I do not consider that their conduct warrants any uplift in costs.

[22] Accordingly, disbursements of \$355.35 for photocopying costs are reasonably claimed by LJT and MKP Limited must pay this amount to LJT within 28 days of this determination.

Helen van Druten
Member of the Employment Relations Authority