

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2025] NZERA 567
3320820

BETWEEN	HAI YIN (KATHY) KU Applicant
AND	EMPLOYMENT FOCUS LIMITED TRADING AS PBRS First Respondent
AND	ANIRUDH ANIRUDH Second Respondent

Member of Authority:	Nicola Craig
Representatives:	Amy De-la Cruz, advocate for the applicant Anirudh Anirudh on behalf of both respondents
Submissions (and other information) received:	15 August 2025 from the applicant 20 August and 1 September 2025 from the respondents
Determination:	12 September 2025

COSTS DETERMINATION OF THE AUTHORITY

The Authority's determination

[1] On 28 July 2025 the Authority issued a determination resolving issues between Hai Yin (Kathy) Ku, Employment Focus Ltd trading as PBRS (referred to as PBRS) and Anirudh Anirudh.¹

[2] Ms Ku was largely successful, establishing that she was unjustifiably dismissed by PBRS and entitled to redundancy compensation. Arrear, grievance remedies and the redundancy compensation were awarded.

¹ *Hai Yin (Kathy) Ku v Employment Focus Ltd t/a PBRS and Anirudh Anirudh* [2025] NZERA 455.

[3] The parties were encouraged to resolve the question of costs between themselves but were unable to do so. Ms Ku now applies for a costs award.

Ms Ku's costs application

[4] Ms Ku provided submissions seeking costs - \$4,500 being the daily tariff for a one-day investigation meeting.

PBRS and Mr Anirudh's position

[5] After Ms Ku's submissions were received Mr Anirudh emailed the Authority proposing a monthly payment plan and attaching some PBRS financial information. He followed up subsequently. It seemed likely that this related to the amounts awarded in the determination rather than to the costs question. As a result the Authority gave PBRS and Mr Anirudh a couple of additional days to provide costs submissions. Nothing more was received.

The Authority's costs principles

[6] The Authority has the power to award costs.² This power is discretionary but must be used in a principled manner. In *PBO Ltd (formerly Rush Security Ltd) v Da Cruz* principles guiding the Authority's approach to costs are outlined including:

- The statutory jurisdiction to award costs is consistent with the Authority's equity and good conscience jurisdiction
- Equity and good conscience is to be considered on a case by case basis
- Costs are not to be used as a punishment or as an expression of disapproval for an unsuccessful party's conduct, although conduct which increased costs unnecessarily can be taken into account in inflating or reducing an award
- Costs generally follow the event
- Awards will be modest
- Frequently costs are based on a notional daily tariff.³

² Employment Relations Act 2000, Schedule 2, cl 15.

³ *PBO Ltd (formerly Rush Security Ltd) v Da Cruz* [2005] 1 ERNZ 808, confirmed in *Fagotti v Acme & Co Ltd* [2015] NZEmpC 135.

Costs analysis

[7] Ms Ku is entitled to an award of costs as she was largely successful in her application.

[8] The starting point is the tariff based on the length of the investigation meeting. It was close to a full day. The notional daily tariff allows for \$4,500 for the first day. No adjustment was sought.

[9] I allow PBRS some additional time to make the payment of costs, to what is usual, given its financial position.

[10] I have considered whether to make a costs order against Mr Anirudh at this point. Leave was granted under s 142Y(2)(a) of the Employment Relations Act 2000 to pursue Mr Anirudh if PBRS is unable to pay notice and holiday pay figures. However, little additional time was required at the investigation meeting to establish that, so no costs are imposed regarding Mr Anirudh personally.

[11] Ms Ku is also entitled to be reimbursed for the Authority's filing fee.

Orders

[12] I order Employment Focus Ltd trading as PBRS to pay Hai Yin (Kathy) Ku within 40 days of the date of this determination:

- \$4,500.00 as a contribution to her costs; and
- \$71.55 for the Authority's filing fee.

Nicola Craig

Member of the Employment Relations Authority