

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

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

[2025] NZERA 775
3142581

BETWEEN

JUNIOR TAUFUA
Applicant

AND

THE CHIEF EXECUTIVE OF
THE DEPARTMENT OF
CORRECTIONS
Respondent

Member of Authority: Claire English

Representatives: Barbara Buckett, counsel for the Applicant
Karen Radich, counsel for the Respondent

Submissions received: 6 November 2025 from Applicant
23 October 2025 from Respondent

Determination: 1 December 2025

COSTS DETERMINATION OF THE AUTHORITY

[1] On 30 September 2025, the Authority issued a determination in this matter, dismissing the applicant's claim of unjustified dismissal, unjustified disadvantage, and breach of good faith. No awards were made.

[2] In that determination, the parties were encouraged to resolve any issue of costs between them, and the Authority made reference to its usual practice of applying the daily tariff to determine costs. The parties have not been able to resolve costs between themselves, and have filed memoranda accordingly.

[3] The respondent seeks an order for costs in accordance with the Authority's daily tariff. It submits the investigation meeting ran for two full days, plus a further half day, and written submissions followed. Therefore, the appropriate amount of costs is the tariff rate for a three-day hearing.

[4] Counsel for the applicant states that “there is no reason to depart from the usual tariff approach” and that the tariff rate should be calculated on the basis of a two-and-one-quarter-day hearing, rather than a three-day hearing.

Analysis

[5] The Authority has adopted a daily tariff approach as the starting point for considering costs. This is well known, and the current daily tariff is \$4,500 for the first day of hearing, and \$3,500 for subsequent hearing days¹.

[6] The parties can expect the Authority to adhere to this approach, unless there is good reason to depart from it. Neither party proposes a departure from the usual tariff, and I record that I would have found no reason to do so in any event.

[7] The investigation meeting in this matter was held over three days. The first two days were full days. The second day was set down for a full day but occupied a half day, with parties then directed to file written submissions.

[8] My view is that it is appropriate to consider costs on the basis of a three-day investigation meeting. Counsel and parties were required to set aside three days for the investigation meeting. While the third day was only a partial day, and my view is that this was a half day of hearing, not the quarter-day argued for by counsel for the applicant, it still required that time to be set aside by all.

[9] Accordingly, my view remains that three days is the appropriate tariff.

[10] Given the conclusion I have reached, I consider that if there was a need to make a modest allowance for the time taken for written submissions, this is already appropriately captured by providing for the third day in full in lieu of the time that would otherwise have been taken in oral submissions.

[11] Further, although the matter involved a substantial number of documents and substantial submissions on behalf of the applicant as acknowledged by both parties, I do not consider that this went beyond the normal course of a hard-fought matter, such that any further adjustments to costs might be required.

¹ For further information about the factors considered in assessing costs, see: <https://www.era.govt.nz/determinations/awarding-costs-remedies/>

[12] At the tariff rate of \$4,500 for the first day and \$3,500 for subsequent days, the tariff for a three-day investigation meeting amounts to \$11,500. Overall, I am satisfied that an award of costs at this rate strikes an appropriate balance and remains a modest award.

Orders

[13] Mr Junior Taufua is ordered to pay to the Chief Executive of the Department of Corrections within 28 days of the date of this determination the sum of \$11,500.00 as a contribution to costs.

Claire English
Member of the Employment Relations Authority