

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

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

[2025] NZERA 852  
3298439

BETWEEN	CAMERON STEELE Applicant
AND	BETTERSAVER LIMITED First Respondent
AND	JOSEPH TAYLOR Second Respondent

Member of Authority:	Nicola Craig
Representatives:	Claudia Serra, advocate for the applicant Joseph (Joe) Taylor for the respondents
Submissions and further information received:	4 December 2025 from the applicant 12 December 2025 from the respondents
Determination:	23 December 2025

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**COSTS DETERMINATION OF THE AUTHORITY**

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**Employment relationship problem**

[1] The Authority issued a determination in this matter on 17 November 2025.<sup>1</sup>

[2] BetterSaver Ltd (BetterSaver or the company) was ordered to pay Cameron Steele interest on previously outstanding wages and holiday pay, its contribution to his KiwiSaver account plus interest on that, and any outstanding employee deductions for KiwiSaver plus interest on that. The company was also required to pay a penalty of \$2,000 for breach of section 130 of the Employment Relations Act 2000 (the Act) and leave was granted to recover wages or other money owing from company director Joseph (Joe) Taylor if BetterSaver was unable to pay the arrears.

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<sup>1</sup> *Cameron Steele v BetterSaver Ltd and Joseph Taylor* [2025] NZERA 739.

[3] Costs were reserved with the parties encouraged to resolve any issue of costs between themselves. That has not occurred.

[4] Mr Steele now seeks costs. Submissions and other documents have been provided on behalf of Mr Steele and BetterSaver.

### **Submissions for Mr Steele**

[5] Mr Steele provides an invoice for representation costs of \$8,903.55 (incl GST).

[6] Submissions take a \$2,250 base figure and seek uplifts from that figure. The proceedings were filed for the sole purpose of securing Mr Steele's minimum statutory entitlements, which had been promised for over a year but remained unpaid until after he engaged in the Authority process.

[7] An uplift is sought due to a *Calderbank* (without prejudice save as to costs) offer.

### **Submissions for BetterSaver and Mr Taylor**

[8] BetterSaver's position is that Mr Steele is not the successful party – all the “substantive” penalty claims were dismissed, including those under the Wages Protection Act 1983 and the Holidays Act 2003. The company tried to resolve the matter. Mr Steele is seen as only pursuing it to obtain penalties, which were time-barred. An order for costs to Mr Steele is opposed.

[9] Instead BetterSaver seeks what it describes as a modest contribution to its costs of \$2,000 plus GST reflecting the mixed outcome, although no indication of having to pay external advisors regarding this case is provided. Alternatively an order that costs should lie where they fall is seen as appropriate.

### **Costs principles**

[10] The Authority has a discretionary power to award costs which is to be used in a principled manner.<sup>2</sup> In *PBO Ltd (formerly Rush Security Ltd) v Da Cruz* the principles guiding the Authority's approach include:

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<sup>2</sup> Employment Relations Act 2000, Schedule 2, cl 15.

- 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.<sup>3</sup>

### **Costs discussion**

*Who was the successful party?*

[11] The issues to be investigated regarding BetterSaver were:

- why the money BetterSaver paid Mr Steele in December 2024 is not showing up in Mr Steele's IRD records;
- whether BetterSaver should have to pay interest from 2022 to 2024 on the wages and holiday pay that was outstanding;
- whether there are unpaid Kiwisaver contributions owed by BetterSaver;
- whether Mr Steele is able to pursue a penalty claim and if so, whether BetterSaver should have to pay a penalty for breaches of:
  - section 27 of the Holidays Act - holiday pay not paid when employment came to an end
  - section 4 of the Wages Protection Act - deductions from wages
  - section 130 of the Employment Relations Act - failure to keep or provide wages and time records
  - the employment agreement - failure to pay wages.<sup>4</sup>

[12] Mr Steele also sought leave to seek recovery from Mr Taylor, as a person involved in breaches of minimum employment standards under s 142W of the Act, if BetterSaver is unable to pay.

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

<sup>4</sup> Above at n 1 at [13].

[13] The question about why payment to Mr Steele did not show up in tax records could not readily be answered on the material before the Authority. The Authority did indicate that BetterSaver should forthwith pay any PAYE outstanding to the IRD regarding Mr Steele.<sup>5</sup>

[14] BetterSaver was ordered to pay interest from 2022 to 2024 on the gross amounts owing.<sup>6</sup> Despite BetterSaver indicating it was prepared to pay interest on the net arrears figure, it did not do so in the period before the determination was issued.

[15] Mr Steele sought unpaid KiwiSaver contributions in his September 2024 amended statement of problem. BetterSaver told the Authority it thought KiwiSaver had been paid but it was unable to confirm that due to the absence of the person involved in making payments. The Authority decided that KiwiSaver looked to be payable, considering Mr Steele's KiwiSaver account records. The company was ordered to make payment for its KiwiSaver contribution for Mr Steele and any employee contribution to the IRD, along with interest on those sums.<sup>7</sup>

[16] Mr Steele sought a penalty. His statement of problem was found to have been lodged outside of the limitation period for three of the breaches relied on with various arguments not establishing that he could still pursue the penalty in those regards.<sup>8</sup> He was awarded a penalty for breach of the obligation to provide wages and time records with 75% of the amount going to him.<sup>9</sup>

[17] Mr Steele has the benefit of Authority orders requiring payments and leave to pursue recovery against Mr Taylor if the company does not make payment.

[18] Although not successful with all his claims, I conclude that Mr Steele should be considered the successful party and on the face of it is entitled to a costs contribution. Although BetterSaver expressed willingness to make payments, it did not do so, and a determination was required.

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<sup>5</sup> Above at n 1 at [20].

<sup>6</sup> Above at n 1, at [24].

<sup>7</sup> Above, n 1 at [27].

<sup>8</sup> Above at n 1 at [34] – [52].

<sup>9</sup> Above at n 1, at [55].

*What is the tariff?*

[19] The starting point is setting the notional daily tariff amount. The tariff for a one day investigation meeting is \$4,500. This matter was determined on the papers with an appropriate starting point being the half a day rate of \$2,250.

*Could the same outcome have been achieved another way?*

[20] Mr Steele was without his outstanding wages and holiday pay for a considerable period and it was not unreasonable to pursue interest for the period before payment occurred. The lack of clarity about tax and Kiwisaver payments due to the absence of records provided when requested from BetterSaver, also warranted him pursuing this matter with the Authority.

[21] On Mr Steele's behalf a *Calderbank* offer was made in September 2025. The offer proposed a settlement which was either equivalent or slightly less than the amount ordered by the Authority.

[22] Although the elements of the proposed settlement were not identical to the Authority orders, I accept that BetterSaver could overall have achieved a similar or better outcome though acceptance of the offer. That would have necessitated less costs being incurred by Mr Steele. BetterSaver chose not to take the offer. A modest uplift of \$750 is warranted, given the timing of the offer.

### **Order**

[23] I order BetterSaver to pay Cameron Steele within 21 days of the date of this determination:

- (a) \$3,000.00 as a contribution to his costs; and
- (b) \$71.55 for the Authority's filing fee.

Nicola Craig  
Member of the Employment Relations Authority