

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON**

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

[2026] NZERA 105  
3355003

BETWEEN                      JAY JAY  
   Applicant  
  
AND                                C3 LIMITED  
   Respondent

Member of Authority:        Sarah Kennedy-Martin  
  
Representatives:              Applicant in person  
   Patrick Anderson for the Respondent  
  
Investigation meeting:        On the papers  
  
Submissions received:        6 January 2026 from the Applicant  
   11 December 2025 from the Respondent  
  
Date:                                26 February 2026

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**COSTS DETERMINATION OF THE AUTHORITY**

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[1] In December 2025, the Authority issued its determination as to Jay Jay's personal grievance claims.<sup>1</sup> In that determination, the Authority declined Mr Jay's personal grievances. The parties were encouraged to resolve any issues of costs between themselves, but have been unable to do so. Having successfully defended Mr Jay's claims, C3 Limited now seeks an award of costs.

**Costs principles**

[2] The Authority has the power under clause 15 of Schedule 2 of the Act to award a contribution towards the costs of the successful party. Costs are a matter of discretion and that discretion is to be exercised in accordance with principle and not arbitrarily.

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<sup>1</sup> *Jay v C3 Limited* [2025] NZERA 777.

The main principle in the exercise of the discretion is that costs follow the event. If a party is successful, they will be entitled to an award of costs. Frequently costs are judged against a notional daily tariff.<sup>2</sup>

### **Submissions on costs**

[3] C3 Limited says \$8,000.00 is an appropriate starting point but seeks an uplift of \$1,000.00 for what it says is Mr Jay's failure to engage about costs. An offer was made that C3 would accept payment of \$8,000.00 as a contribution to C3 Limited's costs. Mr Jay did not reply. C3 says a small uplift of \$1,000.00 to \$9,000.00 should be applied to recognise that Mr Jay failing to respond prolonged these proceedings further.

[4] Mr Jay submits that if costs are awarded that they should be reduced to an amount that is fair, reasonable and proportionate in all the circumstances. He says a costs award in the amount of \$8,000.00 would cause him significant financial hardship as he does not have the financial means to meet costs at this level without a serious impact on his ability to meet his ordinary living expenses.

[5] He also says the amount sought by C3 Limited is disproportionate to the circumstances of the case, particularly having regard to the nature of the issues raised and the parties' respective resources. Finally, he says he participated in good faith and did not act unreasonably, vexatiously or in a manner that unreasonably prolonged the proceeding.

### **Costs analysis**

[6] C3 were the successful party and it is usual that costs follow the event and that the unsuccessful party will be required to make a contribution towards the successful party's costs. The starting point for costs based on the Authority's daily tariff is \$4,500.00 with each subsequent day at \$3,500.00. From that starting point the Authority can consider whether there are factors justifying an increase or decrease in costs.

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<sup>2</sup> <https://www.era.govt.nz/determinations/awarding-costs-remedies>

[7] The Authority's investigation meeting lasted for one full day and a second partial day. The starting point for assessing this costs award is \$8,000.00 and because this matter involved less than a full day on the second day a decrease in the notional daily rate is warranted.

[8] Regarding the request for an uplift for prolonging the proceedings once the determination was issued but when costs were to be considered is not generally a matter the Authority takes into account when assessing costs.

[9] There was no evidence Mr Jay's conduct prolonged the substantive proceedings and although he was ultimately unsuccessful, applicants are able to test dismissals and personal grievance claims in the Authority but with the knowledge that if they are unsuccessful, an award of costs may be made against them.

[10] I accept Mr Jay acted in good faith during the investigation meeting as did C3 Limited. While Mr Jay asks for a reduction due to financial hardship, his application was not supported with any financial evidence or detail.

[11] Stepping back and considering all relevant matters, including that Mr Jay was self-represented I consider a fair costs award in C3's favour, given all the circumstances, including total hearing time, is \$6,000.00.

## **Orders**

[12] Jay Jay is to pay the sum of \$6,000.00 as a contribution towards costs to C3 Limited within 28 days of this determination.

Sarah Kennedy - Martin  
Member of the Employment Relations Authority