

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2026] NZERA 109
3305860

BETWEEN GUICHEN LI
 Applicant

AND FANCY FANCY
 CONSTRUCTION LIMITED
 Respondent

Member of Authority: Rachel Larmer

Representatives: Lennon Xi, advocate for the Applicant
 Aimee Cai, advocate for the Respondent

Investigation: On the papers

Submissions Received: 18 February 2026 from the Respondent
 23 February 2026 from the Applicant
 24 February 2026 from the Respondent

Date of Determination: 27 February 2026

COSTS DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] The Authority issued a substantive determination on 8 December 2025, in which the respondent, Fancy Fancy Construction Limited (Fancy) successfully defended all of the claims made by the applicant, Mr Guichen Li.¹

¹ *Li v Fancy Fancy Construction Ltd* [2025] NZERA 791.

[2] Mr Li's unsuccessful claims against Fancy included:

- (a) Breach of s 12A of the Wages Protection Act 1983 (the WPA).
- (b) Recovery of the alleged employment premium from Fancy.
- (c) Penalty claim against Fancy for its alleged breach of the WPA.
- (d) Unjustifiable disadvantage grievance.
- (e) Unjustified dismissal.

[3] The Authority determined it did not have jurisdiction over Mr Li's personal grievance claims.

[4] The parties were encouraged to resolve costs by agreement. However, costs have not been agreed because Mr Li believes he should not have to pay any costs to Fancy. As the successful party, Fancy has now applied for a costs order of \$4,500.00 in its favour.

The Authority's investigation

[5] Costs were determined 'on the papers'.

[6] Fancy provided GST invoices as proof of the legal costs it has actually incurred. These amounted to more than \$7,000.00, which exceeded the notional daily tariff of \$4,500.00.

[7] The Authority's notional starting tariff is \$4,500.00 for the first day of an investigation meeting. The substantive matter involved a one day in-person investigation meeting.

The parties' submissions

[8] Mr Li's submission that this matter was complex was not accepted. It involved well established law and legal principles and straightforward facts. The matter involved one day which included full interpretation of everything.

[9] Mr Li submitted that as a migrant worker with limited English proficiency "a substantial departure from the notional tariff is warranted", and he should not be ordered to pay any costs.

[10] That was an unrealistic submission which was not accepted by the Authority.

[11] Mr Li has been represented from the outset as his advocate lodged the statement of problem and amended statement of problem. He should have known the Authority did not have

jurisdiction over his personal grievance claims, but he pursued them anyway. Mr Li also pursued the WPA claims without having the evidence required to support them.

[12] The parties were advised at the case management conference to continue attempting to resolve their issues and the parties were informed of the Authority's costs regime. Mr Li therefore knew the likely costs consequences of pursuing claims he did not succeed with before the parties prepared their evidence.

[13] The notional daily tariff has been set to account for the range of parties that participate in Authority proceedings, including those who have English as a second language. Consistency of approach by the Authority regarding costs is important so parties can confidently rely on that information when doing their 'risk versus reward' analysis of their claims/defence.

[14] The Authority does not consider there are any grounds for adjusting the notional daily tariff. This matter therefore involved a straightforward application of the Authority's usual daily tariff.

Order

[15] Within 28 days of the date of this determination, Mr Guichen Li is ordered to pay Fancy Fancy Construction Limited \$4,500.00 as a contribution towards its actual legal costs.

Rachel Larmer
Member of the Employment Relations Authority