

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

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

[2026] NZERA 165  
3310720

BETWEEN                      A LABOUR INSPECTOR  
Applicant

AND                              KCR BOUTIQUE PAINTERS  
& DECORATORS LIMITED  
Respondent

Member of Authority:      Helen van Druten

Representatives:            Erin Spence for the Applicant  
No appearance for the Respondent

Investigation Meeting:      On the papers

Submissions received:      15 January 2026 from the Applicant  
No response from the Respondent

Determination:                19 March 2026

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**COSTS DETERMINATION OF THE AUTHORITY**

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**Employment relationship problem**

[1]      In the Authority's determination of 23 December 2025, the Authority found that KCR Boutique Painters & Decorators Ltd (KCR) did not comply with an Improvement Notice (IN) issued by the Labour Inspector and a compliance order was issued. A penalty of \$3,000 for non-compliance was also awarded pursuant to s 223F(1) of the Employment Relations Act 2000 (the Act).<sup>1</sup>

[2]      Costs were reserved for the parties to negotiate but no agreement was reached.

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<sup>1</sup> *A Labour Inspector v KCR Boutique Painters & Decorators Ltd* [2025] NZERA 846.

## **The application for costs**

[3] In an email of 15 January 2026, counsel for the Labour Inspector advised that an email seeking agreement to costs was sent to both known addresses for KCR on 8 January 2026 and no response was received from either email address.

[4] As the application was determined on the papers, counsel submits that one third of the notional daily tariff would be appropriate, being the equivalent to the amount of time spent dealing with this matter on the papers. It submits that costs of \$1,500 would be appropriate and additional disbursements of \$484.40.

[5] Throughout the Authority's process, KCR has not engaged with the Labour Inspector or the Authority in relation to this matter. As outlined in the substantive determination, there were originally difficulties with service to KCR and substituted service was confirmed by affidavit. Prior to hearing the substantive matter, the Labour Inspectorate received several responses from Ms Courtenay-Roe, as director, from one of those email addresses and the Authority accepted that service was effected.<sup>2</sup> The same emails were used for the costs communication so I proceed on the same basis.

## **Assessment**

### *The Authority's costs approach*

[6] The Authority's discretion to award costs is well established and arises from Section 15 of Schedule 2 of the Employment Relations Act 2000. As counsel submitted, the well-established cost principles in *PBO Ltd (formerly Rush Security Ltd) v Da Cruz*<sup>3</sup> also set out basic tenets when considering costs which guide the Authority. These include that costs will generally follow the event, that awards will be modest, and that costs are not to be used as a punishment or as an expression of disapproval of the unsuccessful party's conduct.

### *Costs for the Labour Inspectorate*

[7] A starting point is that costs normally follow the event and as the Labour Inspector was successful obtaining a compliance order and penalty for non-compliance, an award of costs is appropriate.

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<sup>2</sup> Above n 1 at [7].

<sup>3</sup> *PBO Ltd (formerly Rush Security Ltd) v Da Cruz* [2005] ERNZ 808 at [44].

### *Applying the daily rate*

[8] The Authority's general approach is to apply a notional daily rate and only adjust that rate if persuaded that circumstances or other factors require an upward or downward adjustment.<sup>4</sup> The current full daily rate is \$4,500 for the first day of an investigation meeting.

### *Adjusting the daily rate*

[9] I see no reason to adjust the notional tariff. I accept that the Labour Inspectorate application for \$1,500 is a fair and reasonable contribution to costs application. The evidence provided was extensive and detailed. I consider it as a reasonable proportion of the notional daily rate. No information was provided by KCR to justify any consideration of a reduction in that amount.

[10] While considerable additional time was taken by the Authority and Labour Inspectorate effecting service, this is recognised in the disbursements costs claim. The Authority's guide to awarding costs specifically allows "reasonable disbursements".

[11] The majority of the disbursement costs claimed (\$412.85) relates to the costs of engaging a process server to locate the respondent and effect service. The invoice for engagement of that person was sighted by the Authority. The remaining \$71.55 is for reimbursement of the filing fee. Both amounts are fair and reasonable as actual costs incurred.

### **Order**

[12] Pursuant to clause 15 of Schedule 2 of the Employment Relations Act 2000, KCR is ordered to pay the Labour Inspectorate \$1,984.40 (a contribution to costs of \$1,500 and disbursements of \$484.40) within 28 days of this determination.

Helen van Druten

Member of the Employment Relations Authority

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<sup>4</sup> For further information about the factors considered in assessing costs see: [www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1](http://www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1)