

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2026] NZERA 197
3326960

BETWEEN YING MA
 Applicant

AND NO.2 NOODLE NZ LIMITED
 Respondent

Member of Authority: Simon Greening

Representatives: May Moncur, advocate for the Applicant
 Ethan Liu for the Respondent

Investigation meeting: On the papers

Submissions received: 5 February 2026 from the parties

Determination: 1 April 2026

COSTS DETERMINATION OF THE AUTHORITY

Determination

[1] The Authority issued a determination on 19 January 2026 finding that Ying Ma had been unjustifiably dismissed by No.2 Noodle NZ Limited (N2N).¹

[2] N2N was ordered to pay Ms Ma:

- (a) the sum of \$9,500 pursuant to s 123(1)(c)(i) of the Employment Relations Act 2000 (the Act); and
- (b) the net sum equivalent to one weeks' wages based on a 40-hour working week; and
- (c) to pay a penalty of \$500 to the Crown.

¹ *Ying Ma v No.2 Noodle NZ Limited* [2026] NZERA 25.

[3] The Authority reserved costs and encouraged the parties to resolve the issue of costs between them.

[4] The parties were unable to do so, and Ms Ma has now brought a costs application before the Authority for determination.

Legal principles

[5] The power of the Authority to award costs is set out in clause 15 of Schedule 2 of the Employment Relations Act 2000 (the Act). The principles and approach adopted by the Authority in exercising this power are set out in the Authority's Practice Direction and the legal principles which underpin it.² These principles follow:

- (a) An award of costs is discretionary.
- (b) Costs will generally follow the event.
- (c) The starting point for assessing costs is the notional daily tariff.
- (d) The Authority then considers whether there are any relevant factors which might lead to increasing or decreasing the daily tariff. Factors include:³
 - (i) costs awards in the Authority will be modest;
 - (ii) it is open to the Authority to consider whether all or any of the parties' costs were unnecessary or unreasonable;
 - (iii) costs are not to be used as a punishment or an expression of disapproval of a party's conduct although conduct which increases costs unnecessarily can be considered in increasing the daily tariff; and
 - (iv) the complexity of a matter may justify an increase in the daily tariff.

² *Fagotti v Acme & Co Ltd* [2015] NZEmpC 135 at [114].

³ *JCE v The Chief Executive of the Department of Corrections* [2018] NZERA 175 at [4].

Application

Notional daily tariff

[6] The investigation meeting was one day in length. The starting point for assessing costs based on the daily tariff is \$4,500.

Adjusting the tariff

[7] Ms Ma seeks an uplift on the daily tariff rate because N2N did not agree to attend mediation. The Authority subsequently directed the parties to attend mediation.

[8] Costs associated with preparation for and attendance at mediation, whether by agreement of the parties or at the direction of the Authority, are not typically included in costs awards.⁴ There is no reason to depart from this principle in this case.

[9] There is no reason to adjust the daily tariff rate. The Authority has its own unique approach to costs, which is focused on access to justice and modest costs awards.⁵ The daily tariff has been put in place to give parties an idea of what the costs consequences of pursuing a claim, or losing a claim, are likely to be.⁶

Outcome

[10] Within 28 days of the date of this determination, N2N is ordered to pay Ms Ma the sum of \$4,500 as a contribution towards legal costs incurred.

Simon Greening
Member of the Employment Relations Authority

⁴ Practice Direction of the Employment Relations Authority 2024, cl 11.

⁵ *Key Industries v Perrin* [2023] NZERA 172 at [114].

⁶ Above n 6 at [114].