

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2026] NZERA 199
3326843

	BETWEEN	SARAH BREWER Applicant
	AND	CANOPY CANCER CARE LIMITED Respondent
Member of Authority:	Eleanor Robinson	
Representatives:	Liz Lambert and Erika Whittome, advocates for the Applicant Marie Wisker and Elin Harris, counsel for the Respondent	
Investigation Meeting:	On the papers	
Submissions and/or further evidence	27 March 2026 from the Applicant 27 March 2026 from the Respondent	
Determination:	2 April 2026	

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] In a costs determination of the Authority ([2026] NZERA 100) it was determined that the Applicant, Sarah Brewer, should pay the Respondent, Canopy Cancer Care Limited (CCC) the sum of \$2,500.00 as costs.

[2] In that determination it was acknowledged that it appeared Ms Brewer was experiencing financial difficulties and that the parties might consider reaching an arrangement to pay the costs by means of a reasonable instalment plan.

[3] Unfortunately, the parties have been unable to reach agreement on the details of an instalment plan, and the Respondent has applied to the Authority for directions to be issued for a reasonable repayment plan.

The Authority's investigation

[4] The Authority has received a memorandum from the Respondent's counsel setting out the steps it has taken to reach an agreement on the instalment plan, copies of the

communications between it and Ms Brewer's representatives, and a Debt Schedule and Schedule of budgeting information provided on behalf of Ms Brewer.

Instalment communications between the parties

[5] Following the Authority's determination CCC's counsel wrote to Ms Brewer's representatives seeking agreement to a proposed instalment plan on 26 February 2026.

[6] This was based upon information available to the Respondent at that time about Ms Brewer's income which had been filed by her by way of an unsworn affidavit on 17 February 2026.

[7] Ms Brewer's representatives responded by email on 2 March 2026, advising that Ms Brewer was seeking the services of a budgeter.

[8] On 6 March 2026 CCC's counsel followed up its proposal and was advised that Ms Brewer had not yet seen a budgeter.

[9] CCC's counsel sought a further update on 12 March 2026. On 13 March 2026 Ms Brewer's representatives advised:

- a) There was no outcome from the budgeter for Ms Brewer, and therefore no update in regard to the instalment plan; and
- b) Advised that Ms Brewer intended to file an application for a stay of execution of the Authority's costs order in the Employment Court.

[10] CCC's counsel sought a further update on 24 March 2026 to which Ms Brewer's representatives replied stating that:

- a) Ms Brewer's budgeter had advised that she had only \$28.00 remaining after her expenses per week; and
- b) Advised that the budgeter recommended Ms Brewer could only afford \$5.00 per week in relation to the instalment plan.

[11] CCC's counsel requested a copy of the advice of Ms Brewer's budgeter and the approximate value of any assets Ms Brewer owned, however there was no reply to the request.

[12] To date it is submitted for CCC that it has not been provided with any evidence that Ms Brewer can only pay costs in \$5.00 per week instalments, no proof of the budgeter's advice, and no information about the assets Ms Brewer owns.

[13] CCC's counsel notes that it has now been served with an interlocutory application made by Ms Brewer to the Employment Court for a stay of execution of the Authority's costs determination, while her challenge to the Court is ongoing.

[14] CCC submits that it has been awarded and is entitled to costs. Costs generally follow the event, and a successful litigant is entitled to the fruits of its success.¹ A Challenge does not operate as a stay of proceedings in the Authority.²

[15] CCC acknowledges that Ms Brewer has applied for a stay of execution but submits that she has not been granted an indulgence, and may not be granted one. Therefore, the Authority's costs determination remains enforceable and Ms Brewer's application to the Employment Court does not prevent it from seeking directions from the Authority as to a reasonable instalment plan for the payment of the costs awarded to be paid to it.

[16] CCC submits that while it has been given no proof of Ms Brewer's lack of ability to pay an instalment plan of no more than \$5.00 a week (\$20.00 per month), it is willing to reduce the 4-weekly payments to a \$200.00 per month (\$25.00 per week). This would take Ms Brewer approximately two years to pay the balance.

A reasonable repayment plan

[17] The Authority has received copies of the information provided on behalf of Ms Brewer, however that information gives no indication of any investments and/or assets owned by Ms Brewer.

[18] In the sworn affidavit provided by Ms Brewer on 24 February 2026 she provided some details of her personal financial circumstances. It was stated that at that time jobs in the healthcare sector were out of reach for Ms Brewer, a healthcare professional, because vaccination requirements were only removed by Health NZ on 18 December 2024, and this prevented her obtaining new employment in that sector.

[19] I accept that Ms Brewer's personal financial circumstances are challenging at the moment, however I also note that the Authority does not have any information concerning any assets and/or investments she may own, if any.

¹ *PBO Limited (formerly Rush Security Ltd) v Da Cruz* [2005] 1 ERNZ 808 at [44], *Duncan v Osborne Building Ltd* (1992) 6 PRNZ 85 (CA) at 87

² Employment Relations Act 2000, s 180.

[20] In addition, it is now more than a year since the vaccination requirements were removed by Healthcare NZ and therefore returning to work in her chosen profession may now be an option open to Ms Brewer and were that to occur, it might favourably impact her financial position and ability to meet the costs instalment payment plan.

[21] There is no formal stay on the costs determination before the Authority, and an election to the Court does not operate as a stay.

[22] In light of the above considerations, the following instalment plan is reasonable and is so ordered:

- i. Ms Brewer is to pay Canopy Cancer Care Limited by instalment payments of \$25.00 per week with the first payment starting 10 April 2026; and
- ii. Ms Brewer is to make successive payments of \$25.00 per week on each successive Friday until the total amount owed as costs is paid in full.

[23] CCC is seeking interest in the event that Ms Brewer fails to comply with the instalment plan schedule.

[24] The Authority has power to award interest pursuant to s 11 of the Second Schedule to the Act. It is ordered that in the event that Ms Brewer fails to comply with the above instalment payment plan, Canopy Cancer Care Limited will be able to recover interest on the outstanding amount from the date of default until the date payment is made in full in accordance with Schedule 2 of the Interest on Money Claims Act 2016.

Eleanor Robinson
Member of the Employment Relations Authority