

**NOTE: This determination
contains an order prohibiting
publication of certain information
at [3]**

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

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

[2026] NZERA 221
3304260

BETWEEN XDC
Applicant

AND ALLIED INVESTMENTS
LIMITED (T/A ALLIED
SECURITY)
Respondent

Member of Authority: Sarah Kennedy-Martin

Representatives: Tyrone-Jay Barugh for the Applicant
Richard Roil for the Respondent

Investigation meeting: On the papers

Submissions received: 23 January 2026 from Allied Security
7 April 2026 from XDC

Date: 10 April 2026

DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] In December 2025, the Authority issued its determination as to XDC's personal grievance claims. In that determination, the Authority declined XDC's personal grievances.¹ XDC also sought a stay of costs pending their challenge to the Authority's

¹ *XDC v Allied Investments Limited* [2025] NZERA 798.

determination in the court.² That application was unsuccessful. XDC was a self-represented litigant in the Authority but is now in receipt of legal aid and has the assistance of counsel.

[2] The parties were encouraged to resolve any issues of costs between themselves but have been unable to do so. Allied Investments Limited (Allied Security) seeks costs in relation the proceedings in the Authority.

Non-publication order

[3] There is an interim non-publication order prohibiting publication of XDC's name and identifying details pending further order of the Court.³ The Authority's non-publication order also prohibited non-publication of the name of one other.⁴

Costs

[3] 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. 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 which is \$4500.00 for the first day and \$3,500.00 for any days following.

Allied Security's claim for costs

[4] Allied Security seeks an award of \$8,000.00 consistent with the daily tariff for a two-day investigation meeting. It notes factors such as complexity, the number of witnesses and the amount of evidence could warrant an uplift if the Authority considered it necessary.

[5] Allied Security submits six witnesses were necessary to respond to the multiple events and issues raised by XDC. Allied Security says the claims lacked particularity, and large volumes of documentary evidence and audio recordings were lodged by XDC that Allied Security needed to respond to. It says it incurred significant costs in

² *XDC v Allied Security Limited* [2026] NZERA 115.

³ *XDC v Allied Investments Ltd* [2026] NZEmpC 1.

⁴ Above n3.

responding to XDC's claims and it signalled this in its final submissions and noted the parties agreed to attend further mediation to attempt to resolve matters between them after the investigation meeting.

XDC's position on costs

[6] XDC seeks to have costs lie where they fall or if not, it says the appropriate starting point is the one-day tariff of \$4,500.00. A substantial reduction is warranted on account of XDC's impecuniosity. A reduction of 75 per-cent is submitted to be appropriate, resulting in an award of no more than \$1,125.00.

[7] Although the investigation meeting took two days it is submitted this does not justify the starting point of the full tariff amount for two days because of how Allied Security chose to run its case. The choices made in responding to the claim should not impact on XDC. Allied Security called six witnesses as compared with XDC who called two witnesses. On behalf of XDC it was submitted that not all those witnesses were necessary to respond to XDC's claims.

[8] XDC is in receipt of civil legal aid and their financial position is said to be precarious. XDC provided an affidavit attesting to their position. The main point being that XDC has not worked since employment at Allied Security ended. XDC and their partner are both on emergency benefits leaving XDC with no real prospect of meeting a full tariff costs award of \$8,000.00.

Costs analysis

[9] Allied Security 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 investigation meeting lasted for two days and the starting point is \$8,000.00. From that starting point the Authority can consider whether there are factors justifying an increase or decrease in costs.

[10] This is not a case where an uplift has been sought although factors to do with complexity and the amount of material lodged were noted for consideration if the Authority was of the view an uplift would be appropriate. In effect both parties have relied on the way in which they both ran their cases to support either an uplift or a decrease to support their respective positions.

[11] Parties are able to present their cases as they see fit and there was no evidence XDC's conduct unnecessarily prolonged the substantive proceedings. Applicants are able to test dismissals and pursue personal grievance claims in the Authority but with the knowledge that if they are unsuccessful, an award of costs may be made against them.

[12] This is not a case where an uplift is warranted but XDC seeks a decrease to any costs award due to financial hardship and the attached affidavit sets out their position. There was no financial evidence attached to the affidavit but by virtue of both XDC and their partner being on emergency benefits, the implication is that there are no financial resources available to them. Based on that information it would appear a full costs award may have an unduly punitive effect on XDC although it is noted XDC has lodged a challenge to the Authority's determination in the court.

[13] Stepping back and considering all relevant matters, including that XDC was self-represented, their financial position and that Allied Security was the successful party and is entitled to contribution towards costs I consider a fair costs award in Allied Security's favour to be \$6,000.00.

Orders

[14] XDC is to pay Allied Investments Limited \$6,000.00 as a contribution towards costs within 28 days of this determination.

Sarah Kennedy - Martin
Member of the Employment Relations Authority