

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2026] NZERA 228
3340560

BETWEEN	NAN JIA First Applicant
AND	HUACHAO HOU Second Applicant
AND	FX NZ LIMITED First Respondent
AND	YINGSI WEI Second Respondent

Member of Authority:	Helen van Druten
Representatives:	David Kim, advocate for the Applicants None for the Respondents
Submissions received:	20 March 2026 from Applicant None from the Respondent
Determination:	16 April 2026

COSTS DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] The Authority issued a determination on 22 January 2026 finding that FX NZ Limited had failed to pay contracted wage and leave entitlements, unlawfully made deductions from wages and unjustifiably disadvantaged both Huachao Hou and Nan Jia in their employment. Penalties were also awarded for multiple breaches of the Employment Relations Act 2000.¹

[2] FX NZ's director Yingsi Wei was also found to be a person involved in the breaches of employment standards. Mr Hou and Mr Jia were given leave to pursue Mr

¹ *Jia & Anor v FX NZ Ltd & Anor* [2026] NZERA 30.

Wei for payment of wage arrears and leave entitlements and refund of amounts deducted unlawfully from wages if FX NZ Ltd was unable to pay those amounts.

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

The application for costs

[4] In a concise email of 20 March 2026, Mr Kim as advocate seeks costs of \$4,500 and the Authority filing fee as per the Authority's normal daily tariff approach.

[5] In his submission, Mr Kim advises that on 9 March 2026 he spoke with Mr Wei regarding costs. After that conversation an extension of time for the parties to continue to negotiate costs was requested and granted. Despite that extension, no agreement on costs was reached between the parties so the Authority is asked to determine costs.

[6] For the costs application, the Authority attempted service for FX NZ Ltd and Mr Wei on both the email lodged with the Authority and the street address for FX NZ Limited and Mr Wei as listed on the Companies Register. Both attempts were unsuccessful. Subsequently, Mr Kim provided evidence of delivery of the costs memorandum with Mr Wei on 20 March 2026 and I am satisfied that service was effected. FX NZ Ltd and Mr Wei were advised of the opportunity to lodge a reply memorandum but did not do so.

Assessment

The Authority's costs approach

[7] The Authority's discretion to award costs is well established and arises from Section 15 of Schedule 2 of the Employment Relations Act 2000. The well-established cost principles in *PBO Ltd (formerly Rush Security Ltd) v Da Cruz*² 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 Mr Jia and Mr Hou

[8] A starting point is that costs normally follow the event. As both were successful in their claims, an award of costs is appropriate.

² *PBO Ltd (formerly Rush Security Ltd) v Da Cruz* [2005] ERNZ 808 at [44].

Applying the daily rate

[9] 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.³ The current full daily rate is \$4,500 for the first day of an investigation meeting.

Adjusting the daily rate

[10] The investigation meeting on 16 October 2025 took just less than a day. There was no appearance for FX NZ Ltd or Mr Wei. Despite this, the investigation meeting continued.

[11] Despite no respondent party, the investigation meeting took longer than expected to work through the issues raised though I see no reason to significantly adjust the notional tariff for that reason. A 20 per cent reduction of the notional daily tariff is proportionally appropriate and this brings the costs awarded to \$3,600.

[12] No information was submitted by FX NZ Ltd to justify any consideration of a reduction in that amount.

[13] Mr Kim submitted evidence of the invoiced costs to Mr Jia and Mr Hou.

Orders

[14] Within 28 days of this determination, FX NZ Ltd and Mr Wei must, on a joint and several basis, pay:

- a. \$1,800 to Mr Jia and \$1,800 to Mr Hou as a contribution to their costs of representation in the Authority;
- b. reimburse the Authority application fee of \$71.55 to Mr Kim as representative of both applicants.

Helen van Druten
Member of the Employment Relations Authority

³ For further information about the factors considered in assessing costs see: www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1.