

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2026] NZERA 254
3386724
3391564

BETWEEN WATERWARE SERVICES
LIMITED
Applicant

AND JEREMY CROXFORD
Respondent

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Applicant

AND WATERWARE SERVICES
LIMITED
Respondent

Member of Authority: Simon Greening

Representatives: Darren Yearsley for the Applicant
Fiona McMillan, counsel for the Respondent and Lucy
Larkin for the Respondent

Investigation meeting: On the papers

Submissions and other
information received: 26 March 2026 from the Applicant
30 March 2026 from the Respondent

Determination: 29 April 2026

COSTS DETERMINATION OF THE AUTHORITY

Determination

[1] The Authority issued a determination on 10 March 2026. Mr Croxford was ordered to pay Waterware Services Limited (WSL):¹

¹ *Waterware Services Limited v Jeremy Croxford* [2026] NZERA 148.

- (a) the sum of \$47,263 in respect of overpaid bonus payments, by 30 December 2026; and
- (b) the sum of \$11,789.69 in respect of overpaid annual leave entitlements, by 1 August 2026; and
- (c) to pay interest on the sum of \$38,899.10, within 90 days of the date of the determination.

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

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

Legal principles

[4] 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

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].

- (iv) the complexity of a matter may justify an increase in the daily tariff.

Application

[5] The investigation meeting was two days in length.

[6] WSL was self-represented at the investigation meeting. However, WSL has provided the Authority with invoices for legal services provided by Wynyard Wood Lawyers (WWL).

[7] The total amount of legal fees incurred by WSL was \$10,218.94.

[8] WSL also incurred professional accounting fees in regard to Ms Holzmann's attendance at the investigation meeting. The total amount of professional accounting fees incurred by WSL was \$2,277.

[9] Therefore, the total amount of legal and accounting costs incurred by WSL was \$12,495.94.

[10] WSL seeks the daily tariff, which is \$8,000.

[11] I have analysed the invoices provided by WSL and make the following comments:

- (a) Ms Holzmann appeared at the investigation meeting as a witness for WSL.
- (b) The Authority did not issue a summons for Ms Holzmann to attend the investigation meeting.
- (c) Therefore, in determining the costs award I have not taken Ms Holzmann's professional accounting fee into account.
- (d) The first invoice from WWL covers the period 29 May 2025 to 27 June 2025.
- (e) The statement of problem was lodged by WSL on 20 June 2025. The first invoice covers work related to preparing the statement of problem and general employment advice.
- (f) I am not satisfied the costs incurred by WSL as a result of the work described in the first invoice relates to the investigation meeting. The

invoice amount of \$4,077.90 is therefore not considered in determining the costs award.

- (g) There are two additional invoices, the total sum of which amounts to \$6,141.04, which relate to work undertaken by WWL, for WSL, preparing for the investigation meeting and written submissions which followed.

[12] The starting point for assessing costs based on the daily tariff is \$8,000. WSL was self-represented at the investigation meeting. However, WSL incurred legal costs, as described in the invoices provided to the Authority, which were directly related to the investigation meeting.

[13] WSL is entitled to a contribution to its actual and reasonable legal costs incurred, based on the tariff rate but taking into account only the legal costs which directly relate to work undertaken for the investigation meeting.

[14] WSL is entitled to a contribution to its legal costs, being the sum of \$6,141.04.

Outcome

[15] Within 60 days of the date of this determination, Mr Croxford is ordered to pay WSL the sum of \$6,141.04 as a contribution towards its legal costs incurred, and the filing fee of \$71.55.

Simon Greening
Member of the Employment Relations Authority