

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2026] NZERA 284
3301420

BETWEEN MICHAEL NABER
 Applicant

AND CONNETICS LIMITED
 Respondent

Member of the Authority: Antoinette Baker

Representatives: Liz Lambert, advocate for the Applicant
 Ashley-Jane Lodge, counsel for the Respondent

Date: 7 May 2026

COSTS DETERMINATION OF THE AUTHORITY

[1] This is a costs application by the respondent, Connetics Limited (CL) against Mr Naber who throughout was represented by Number 8 Workers Union of New Zealand Inc. (Number 8). On 3 March 2026 I determined ‘on the papers’ that Mr Naber was unsuccessful in his claims (my determination).¹ Mr Naber had lodged his claim as including that he should be paid a 2% backdated increase in salary to be consistent with the two collective employment agreements in the workplace, he claimed not to do so was a breach of s 9 of the Employment Relations Act 2000 (the Act), he sought 6% interest on the money he claimed and that a penalty be awarded for breach of s 9 of the Act.

[2] In my determination at [24] I indicated that in the event the parties were unable to resolve costs and an Authority determination on costs was needed, a memorandum from CL should be filed with the Authority within 28 days and from the date that is filed Mr Naber would have 14 days to reply.

¹ *Naber v Connetics Limited* [2026] NZERA 126.

[3] CL lodged an application for costs on 31 March 2026, Mr Naber had, as directed, 14 days to respond. The Authority continued to seek a response as to costs when none was received. On 1 May 2026 Number 8 responded that it was no longer representing Mr Naber and that the Authority should contact him directly. Mr Naber was contacted and confirmed Number 8 was still representing him. A response to the costs application was received for Mr Naber by Number 8 on 4 May 2026.

[4] CL claims that while this matter was determined on the papers the work in providing submissions and an affidavit was consistent with a day investigation meeting to which the tariff approach would support awarding \$4,500.00 for a day's investigation as a contribution to its costs.

[5] For Mr Naber it is submitted that I should reduce the \$4,500.00 amount for a day long investigation meeting equivalent by 50% due to the submissions that Number 8 made relating to CL's position in response to the claim that it was obliged by s 59B of the Act not to pass on the pay increase. It is submitted that because my determination did not cover this aspect Mr Naber's time (as I take it) was wasted in submissions on this.

[6] The Authority has the discretionary power to award costs.² A party should receive a reasonable contribution to costs incurred in achieving a successful result. Costs are discretionary, modest, and not a mechanism to punish the other party. The Authority uses a notional daily tariff adjusting up or down as appropriate by considering a liable party's means to pay costs, settlement offers made by either party, extra preparation if a case is complex, and conduct that has unnecessarily increased costs. That tariff is notionally based on the time of an investigation meeting.

[7] While the applicant has alerted me to matters in the Authority where costs have been compared to the tariff when considered 'on the papers' I do not find any are specifically the same as this matter. I do not find for example that the matter was factually complex and while the question of whether s 9 had been breached did require some interpretive analysis my determination dealt with the matter in 24 paragraphs. I find a day long investigation tariff starting point too much in these circumstances. On the other hand, I find reducing that same starting point by 50%, as asked on Mr Naber's behalf is also too much. The claim was clearly

² Employment Relations Act 2000, Schedule 2, cl 15.

about whether a breach occurred of s 9 for which the remedies were sought, and these were what CL was put to the trouble of responding to. This included the claim for a penalty and CL accept time to consider the material put forward for Mr Naber. I have nothing before me to show Mr Naber cannot contribute to costs and CL was wholly successful in defending the claim.

[8] Accordingly, I order that Mr Naber contribute three quarters of the equivalent of the daily tariff to CL for its costs in this matter being \$3,375.00. This is to be paid within 28 days from the date of this determination.

Antoinette Baker
Member of the Employment Relations Authority