

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

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

[2026] NZERA 333
3287019

BETWEEN	LUAT TRAN Applicant
AND	AQ TRADING & SERVICE LIMITED Respondent

Member of Authority:	Claire English
Representatives:	Allen Goldstone, counsel for the Applicant Kathryn McKinney, counsel for the Respondent
Submissions received:	Up to 30 March 2026 from Applicant Up to 1 April 2026 from Respondent
Determination:	29 May 2026

COSTS DETERMINATION OF THE AUTHORITY

[1] On 20 February 2026, the Authority issued a determination in this matter, awarding wages, and holiday entitlements in favour of the applicant.

[2] In that determination, the parties were encouraged to resolve any issue of costs between them, and the Authority made reference to its usual practice of applying the daily tariff to determine costs. The parties have not been able to resolve costs between themselves, and have filed memoranda accordingly.

[3] The applicant submits that it should be awarded costs in the total sum of \$10,000, calculated on the basis of the Authority's daily tariff for two-and-a-half days of hearing (which it sets at \$8,600), with an uplift of \$900 in respect of time spent on account of the respondent's counterclaims which were unsuccessful, and a further sum of \$500 in respect of costs submissions.

[4] The respondent submits that it should not be required to pay costs to the applicant. Instead, it submits that it should be awarded costs calculated on the basis of the Authority's daily tariff for two-and-a-half days of hearing (which it sets at \$8,500), with an uplift of \$5,000 due to the time spent on the applicant's personal grievance claims which were unsuccessful, and a further sum of \$5,000 in respect of the costs submissions.

Principles and appropriate starting point

[5] The Authority has adopted a daily tariff approach as the starting point for considering costs. This is well known, and the current daily tariff is \$4,500 for the first day of hearing, and \$3,500 for subsequent hearing days¹.

[6] The parties can expect the Authority to adhere to this approach, unless there is good reason to depart from it.

[7] The investigation meeting in this matter was for two full days and one part day, in person and via AVL for the final part day.

[8] This suggests that the appropriate starting point for an award of costs is the Authority's daily tariff for a hearing of this length, which the applicant submits is \$8,600 and the respondent sets at \$8,500.

[9] The question then is to whom costs should be awarded. Costs are to follow the event. In this matter, the applicant was the successful party, and succeeded in being awarded wages and holiday entitlements. The respondent was not successful in its counterclaims against the applicant.

[10] As the respondent points out, the applicant had only partial success however, as he was not successful in making out his personal grievance claims.

[11] I do not consider the applicant's partial success means that it is appropriate to award costs to the respondent, or to disentitle the applicant from receiving an award of costs. Partial success is still success. In the round, the applicant was the successful party and is therefore entitled to an award contributing to his costs.

¹ For further information about the factors considered in assessing costs, see: <https://www.era.govt.nz/determinations/awarding-costs-remedies/>

[12] I have considered whether this partial success might mean it is appropriate to allow costs to lie where they fall, or that there should be some uplift in costs potentially payable to the respondent, or a reduction in costs payable to the applicant. The respondent submits that time was wasted by the applicant's pursuit of his unsuccessful personal grievance claims, and that this should be taken into account. It is submitted for the applicant that matters were genuinely in contention and no reduction is warranted.

[13] While the applicant did not succeed on all his claims, neither did the respondent succeed with its claims. When I consider the starting point of \$8,600 requested by the applicant on the basis of the daily tariff, my view is that this remains appropriate with no uplift or reduction in favour of either party.

[14] There was some correspondence before me about settlement offers, and whether they were protected by mediation or other privilege. Given the extent of the dispute, I have chosen not to take this into account either way.

[15] Both parties have requested a further \$500 allowance in respect of costs submissions, but likewise I have chosen not to take this into account either way. It is not the Authority's practice to award costs on costs submissions, and this is in accordance with the principle that costs awards should be modest.

Orders

[16] AQ Trading & Service Limited is ordered to pay to Mr Luat Tran within 28 days of the date of this determination the sum of \$8,600.00 (inclusive) as a contribution to costs.

Claire English
Member of the Employment Relations Authority