

NOTE: This determination contains an order prohibiting publication of the applicant's name and identifying details at [2].

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2026] NZERA 367
3361723

BETWEEN ZZP
Applicant

AND THE COMMISSIONER OF
INLAND REVENUE
Respondent

Member of Authority: Peter Fuiava

Representatives: Denis Asher, advocate for the Applicant
Susan Hornsby-Geluk, counsel for the Respondent

Investigation Meeting: 18 February 2026 in Auckland

Submissions and other 25 February and 4 June 2026 from the Applicant
information received: 3 March and 3 June 2026 from the Respondent

Determination: 10 June 2026

DETERMINATION OF THE AUTHORITY

A non-publication order of the applicant's name is granted

[1] ZZP applies for an order that their name and identifying details not be published so as to protect their psychological wellbeing and future job prospects. There is a two-step process in assessing applications for non-publication; first, there must be a reason to believe that specific adverse consequences could reasonably be expected to occur if publication was allowed; second, consideration must then be given as to whether the adverse consequences are significant enough to justify a departure from the principle of open justice.¹

¹ *MW v Spiga* [2024] NZEmpC 147, [2024] ERNZ 678 at [88]-[89].

[2] As will be seen, ZZP has a history of major depression for which they have been treated by a psychiatrist. ZZP also suffered from chronic physical pain which went undiagnosed until June 2024 when a referral to a rheumatologist led to a diagnosis of fibromyalgia, which is now well controlled. However, ZZP was absent from work for several months as a result of their mental health struggles and I am satisfied that there is a real chance of a further relapse if their name and identifying details were published. I am further satisfied that ZZP's mental health is such that a departure from the principle of open justice is justified and therefore grant a permanent non-publication order. To ensure their anonymity, the names of the parties' witnesses including ZZP's now former psychiatrist and current psychotherapist have been depersonalised in this determination.

What is the employment relationship problem?

[3] ZZP was employed by the IRD from March 2013 until 16 December 2024, when their employment was terminated on medical grounds. The claim in the Authority is one of unjustified dismissal in that the decision to dismiss went against recent medical evidence suggesting that ZZP could resume their duties in the near future. It was further submitted that the decision maker, ZZP's group lead, gave them no opportunity to comment on various concerns which he articulated for the first time in his final letter that ended the employment relationship on medical grounds.

How has the Authority investigated?

[4] For the Authority's investigation, written witness statements were received from ZZP, their father, and a union representative. For the IRD, written witness statements from the group lead and a team lead were provided.

[5] All witnesses answered questions under oath or affirmation from me and the parties' representatives. Following the conclusion of the investigation meeting, written closing submissions from the representatives were subsequently filed and have been considered.

[6] As permitted by s 174E of the Employment Relations Act 2000 (the Act), this determination has stated findings of fact and law, expressed conclusions on issues necessary to dispose of the matter and specified orders made. It has not recorded all evidence and submissions received.

Background

[7] At the time of the dismissal, ZZP had been in a leadership role with several direct reports who worked in a busy call centre environment for the IRD.

[8] On 18 March 2024, ZZP provided the group lead with a medical certificate from a GP that requested flexible work hours for a period of four weeks due to significant stressors affecting ZZP's psychological wellbeing. The request was approved.

[9] On 9 April, the IRD received a second medical certificate stating that ZZP was fully unfit to attend work for a period of three weeks and that the GP would review matters on 30 April.

[10] On 24 April, a third medical certificate was provided certifying that ZZP would be well enough to return to work on 6 May but only part time for 20 hours per week. The request to work part-time was approved.

[11] On 1 May, ZZP telephoned the group lead that they were unfit to return to work on the 6th as originally planned and that a referral for a psychiatric assessment had been made. A fourth medical certificate was provided which stated that ZZP was unfit to return to work and that the GP would review matters on 21 May.

[12] On 21 May, the IRD received a fifth medical certificate, this time from a psychiatrist that requested that ZZP be excused from work from 21 May to 21 June and that the psychiatrist would review ZZP on 21 June and determine whether a return to work was possible or whether further time off was required.

[13] On 11 June, the group lead received a sixth medical certificate in which the psychiatrist advised that ZZP was unfit to work from 4 June to 4 September. The medical certificate stated for the first time that ZZP was receiving treatment and therapy for depressive features precipitated by "burnout" which the IRD denies was work-related.

[14] On 13 August, a seventh medical certificate was provided in which the psychiatrist sought to have ZZP excused from attending work from 13 August to 30 November 2024 on the grounds that they had recently been diagnosed with a chronic

physical health condition and had commenced treatment that required time to take effect before they could return to work.

[15] An eighth medical certificate from the psychiatrist dated 27 September was provided and reiterated that ZZP was receiving treatment and therapy for depressive features precipitated by burnout. However, the psychiatrist recommended a gradual return to work for ZZP for three half-days from 7 to 11 October, five half-days from 14-25 October, and five full days from 28 October 2024.

[16] The respondent agreed to the proposed return-to-work plan in order to assist ZZP ease back into full-time work. ZZP initially returned to work three half-days a week with a view to returning to full-time work from 28 October as recommended by their psychiatrist. Before ZZP returned to work, a team lead made contact to discuss their transition which included buddying up with another team lead in the interim.

[17] On 14 October, ZZP contacted the group lead to advise that they were finding their return to work difficult; that there had been a number of changes while they had been away; and that they had reservations about returning to their leadership role. The group lead's advice was for ZZP to take matters slowly and to focus on just one thing at a time while they reintegrated into work.

[18] On 29 October, ZZP returned to full-time work but called in sick the following day. Since then, they have not been back.

[19] On 1 November, the IRD received a ninth medical certificate from the psychiatrist who requested that ZZP be excused from work from 28 October to 30 November. The letter reiterated that ZZP was receiving treatment and therapy for a major depressive episode precipitated by burnout and that they had been additionally diagnosed with a chronic physical health condition which was well controlled. The letter further stated that ZZP had recently suffered a relapse of their condition that necessitated an urgent change in treatment and a period of time to monitor their response to the new treatment regime.

[20] The IRD received a tenth medical certificate on 8 November, in which the psychiatrist stated that she had reviewed ZZP and was pleased to report that they had shown improvement with their clinical condition and that there were a number of positive prognostic factors which the psychiatrist would expand upon in her next update.

[21] By letter dated 26 November, the psychiatrist recommended that ZZP be excused from attending work from 26 November 2024 to 13 January 2025. The letter set out various good and poor prognostic factors and noted that ZZP had made good progress with a change in their medications and was not displaying any adverse effects to treatment which was positive. To support their return to work, the psychiatrist recommended a return-to-work plan of five half-days for the week of 13 to 17 January 2025; alternative half-days and full days from 20 to 24 January; and then five full days from 27 January.

[22] On 29 November, the IRD wrote to ZZP proposing to bring the employment relationship to an end on medical grounds.

[23] The parties met on 4 December to give ZZP an opportunity to provide feedback on the proposal of medical retirement. ZZP, their father and the union representative met with the group lead and an HR representative who attended the meeting remotely via Teams. ZZP read out loud a pre-prepared written statement in which they explained that their absences from work were due to genuine illness and that it was unfortunate that their recovery kept stretching out but that this was outside of their control as ZZP continued to be hit by one thing after the other.

[24] ZZP acknowledged the frustration this had caused for the IRD in having to extend their sick leave and provide cover but they were now on a solid path to recovery. ZZP explained that not knowing the cause of their physical pain led them to a different GP and a referral to a rheumatologist and a subsequent diagnosis of fibromyalgia in August 2024. They were subsequently prescribed with pain medication but the psychiatric medicine did not sit well with ZZP. Around this time, their father suffered a heart attack, and when ZZP returned to work in October, the anti-depressants were causing brain fog and indecisiveness. However, ZZP stated they were now on new medication and was back to normal with a better tool kit of strategies to handle any

anxiety. ZZP explained that sessions with a psychotherapist (who had since become their main treatment provider) would continue and that they were willing to work with the IRD to transition back to their previous role.

[25] The union representative submitted that there had been a number of contributing factors and that the late diagnosis of fibromyalgia had the effect of making ZZP's recovery longer. Even so, the turning point was the involvement of the psychotherapist who had given ZZP a tool kit of strategies to use. When combined with the new treatment regime, it was submitted that they could return to their role.

[26] The father clarified that ZZP's brain fog occurred during a phasing out of the old antidepressant medication and a phasing in of the new and that it would be sad if ZZP lost their job as they were now on the right path to recovery.

[27] After the 4 December meeting, the group lead emailed the union representative to request the psychiatrist's view on an earlier return to full-time work for ZZP rather than a later return on a graduated basis as had been previously recommended by the psychiatrist (see above at [21]). The group lead felt uncomfortable acting in contradiction to her earlier advice.

[28] The union representative advised that they had an issue with the request because it appeared that the group lead may have missed her comment made during the 4 December meeting about the psychiatrist having left her practice a couple of days after she wrote her letter. The representative stated however that ZZP's father would reach out to another psychiatrist but she doubted that he would be able to get an appointment at that time of the year and that the next option was to submit a letter from the psychotherapist who could make a recommendation having regard to the psychiatrist's original letter.

[29] IRD was subsequently provided with a letter from the psychotherapist dated 5 December 2024 and a letter from a GP dated 3 December that confirmed ZZP had been diagnosed in August 2024 with fibromyalgia and that this was currently well-controlled with no new symptoms to date. The psychotherapist's letter recorded that she had first seen ZZP on 17 September and that she had also read IRD's letter proposing their medical retirement. However, the psychotherapist noted that from

November 2024, they had shown significant improvements and was now engaged in intensive psychological therapy once or twice per week for maximum effect. The psychotherapist further stated that ZZP's acute depressive episode was now in remission and that she believed that they could, notwithstanding the challenging work environment, sustain a return to full-time work with adequate support.

[30] The psychotherapist stated that ZZP had made considerable progress and urged that any decision be postponed for treatment to be effective and meaningful as they were only part way through an intensive rehabilitation programme. The psychotherapist further stated that once ZZP had returned to work, the pair would continue to work together to prevent future burnout, develop interpersonal skills, and manage difficult situations, stressors and communication. It was the psychotherapist's view that ZZP could return to work on 6 January 2025 and while this was sooner than what had been proposed earlier by the psychiatrist, there had been striking improvements which made this achievable.

[31] By letter dated 16 December, IRD advised ZZP of its decision to terminate the employment relationship on the grounds of medical retirement. For the reasons set out later in this determination, the group lead stated that he simply had no confidence that any return to work for ZZP would be meaningful or sustained and that medical retirement was the appropriate decision. ZZP was advised that they would receive a payment equivalent to 65 days' pay plus any outstanding annual leave that may have accrued. Their last day of service was 16 December. Sometime in February 2025, ZZP raised their personal grievance of unjustified dismissal.

Was ZZP unjustifiably dismissed?

[32] IRD's decision to dismiss ZZP on medical grounds must be considered through the lens of s 103A of the Act: the test of justification which requires the Authority to objectively determine whether the employer's actions, and how the employer acted, were what a fair and reasonable employer could have done in all the circumstances at the time the dismissal occurred.

[33] However, the Employment Court in *Lal v The Warehouse Ltd* recognised that the factors in s 103A of the Act do not sit comfortably with the no-fault based dismissal

of medical incapacity.² In *Lal*, Judge Inglis, as she was then, established a broad framework to approach dismissals involving medical incapacity. Recently in *Sheridan v Pact Group*,³ her Honour, as the Chief Judge of the Employment Court, reaffirmed the same framework quoting the following from *Lal*:⁴

[33] The employer must give the employee a reasonable opportunity to recover. The terms of the employment agreement, any relevant policy, the nature of the position held by the employee and the length of time they have been employed with the employer are factors which are likely to inform an assessment of what is reasonable in the circumstances.

[34] The employer must undertake a fair and reasonable inquiry into the prognosis for a return to work, engaging appropriately with the employee. This will likely involve seeking and considering relevant medical information. It will also involve explaining the reasons for the inquiry, the possible outcome of it, and providing the employee with an opportunity for input and comment.

[35] The employer must fairly consider what the employee has to say before terminating their employment. An employer is entitled to have regard to its business needs in deciding an appropriate response to the situation and any applicable timeframes. An employer is not obliged to keep a job open indefinitely, no matter how long an employee has been employed or how large the organisation is. For their part, an employee is obliged to be responsive and communicative.

[36] In cases of medical incapacity, and a reduced ability to undertake certain tasks, a level of engagement with attempts to facilitate a return to work may reasonably be expected. Fairness cuts both ways, consistently with the mutual obligations which exist in employment relationships ...

[34] The first question to be asked under the above framework is whether a reasonable opportunity had been given to ZZZP to recover. It is noted that the relevant collective agreement between the IRD and ZZZP's union is silent as to this question which is likely to be contextual and fact specific in any event. ZZZP was responsible for 12 direct reports who worked in a busy call centre environment. It was the group lead's evidence, which I come back to later in this determination, that the segment in which ZZZP worked was a challenging area of IRD's business with regular interaction with customers in emotionally charged situations or experiencing financial difficulty.

[35] ZZZP's period of absence from the workplace was considerable at 29 weeks and it is well established that an employer is not bound to hold a job open indefinitely for

² *Lal v The Warehouse Limited* [2017] NZEmpC 66 at [32].

³ *Sheridan v Pact Group* [2026] NZEmpC 51 at [37]-[38].

⁴ *Lal*, n 2, at [33]-[36].

an employee who is unable to work.⁵ While the relevant collective agreement provides no guidance on what constitutes a reasonable opportunity for an employee to recover, the IRD's policy on "Injury or Illness Rehabilitation Guidelines" applies to an employee who has a mental injury or illness. These are broadly defined as a severe or persistent psychological issue that impacts on a person's ability to cope with everyday life and includes depression, severe anxiety or post-traumatic stress disorder.

[36] The policy states that IRD will listen to the advice provided by a medical practitioner regarding whether the affected staff member is fit to return to work and in what capacity. Relevantly for ZZZP's case, the policy states that if an employee experiences a setback in their recovery while they are on a graduated return to work plan, the plan will be reassessed, factoring in the details of the setback. If required, the work hours and/or duties may be adjusted to enable them to continue making safe progress in returning to work.

[37] The policy informs my assessment as to what was reasonable in the circumstances for ZZZP and I find the IRD to have acted fairly and reasonably by giving ZZZP the time they needed to recover. Although it was submitted that ZZZP was pressured to return to work to bust rumours among staff about their absence, this was a matter of conjecture with no supporting evidence independent of ZZZP and the father. The documentary evidence before me does not establish that ZZZP was pressured to return to work in any way by their employer.

[38] The *Lal* framework envisages an employer undertaking a fair and reasonable inquiry of an employee's prognosis for a return to work. I am satisfied that the IRD did this by relying on the medical evidence provided by ZZZP and accepting that information at face value. In particular, the group lead followed the recommendations of the psychiatrist set out in her medical certificate dated 27 September in which ZZZP was to return to work on a graduated and part-time basis in early October. While this was much sooner than the psychiatrist's earlier medical certificate dated 13 August (see [14] above) which sought to excuse ZZZP from work until 30 November, it appears that ZZZP had sought an earlier return date contrary to that earlier advice, which is a matter for ZZZP.

⁵ *Canterbury Clerical Workers IUOW v Andrews and Beaven Ltd* [1983] ACJ 875 at 877.

[39] It may be noted that it was the group lead's evidence to the Authority that he was surprised to see ZZP back at work as he did not expect them back until 30 November. Unfortunately, ZZP's return to work in October 2024 was not successful and with the benefit of hindsight, it was accepted that they would not have returned when they did. Even so, ZZP later explained that their return to work failed because they were in the middle of changing antidepressant medication which caused the side effects of brain fog, indecisiveness, and behaviour that was uncharacteristic of them. In line with its own policy, the IRD excused ZZP from work and sought further medical information of a prognosis which is entirely orthodox in the circumstances.

[40] The question remains however whether in spite of the setback, the IRD could have allowed ZZP to return to work. It was submitted that it failed to take into account three medical certificates that stated (purportedly) that they were fit to return to work. There was the medical certificate from the psychiatrist dated 26 November (see above at [21]), another medical certificate from the psychotherapist dated 5 December (at [29]-[30] above); and a further certificate from a GP dated 3 December (noted at [29]). The medical certificate from the GP can be put to one side as it concerned ZZP's fibromyalgia which was not a matter of concern for the group lead but rather their fragility and mental health which had come undone during the failed return to work in October.

[41] IRD was correct to approach the medical certificates provided by the psychiatrist on 26 November and the psychotherapist on 5 December with caution. Although both certificates stated that ZZP could return to work in January, this was forward looking and was not the same as stating that ZZP was in fact fit to work. This is particularly so when the psychiatrist had previously indicated in a medical certificate dated 27 September that ZZP could return to work in October, the outcome of which is well known. Contextualised in this manner, the IRD could therefore not rely on the indication of a return date for ZZP as being synonymous with being fit to work.

[42] All things considered, it cannot be said then that the IRD ignored recent medical evidence of ZZP's fitness to return to work because the medical certificates from the psychiatrist and the psychotherapist did not in fact say this and nor would it have been responsible for IRD to make an inference of fitness given ZZP's failed return to work in October, which was still recent. However, that said, the difficulty I have with the

IRD's final decision to dismiss is that it is apparent that there were several concerns held by the group lead as decision maker which was never communicated to ZZP and consequently they were deprived of the opportunity to provide further comment.

[43] The test of justification requires the Authority to consider whether the employer raised their concerns with their employee before dismissing them and whether the employer gave the employee a reasonable opportunity to respond to those concerns before the dismissal.⁶ In *Lal*, the Court also observed that an employer must fairly consider what their employee has to say before terminating their employment.⁷ When I questioned the group lead about the shortcomings with his final letter of dismissal, to his credit he accepted that "on reflection, there can always be learnings". Those matters in the final dismissal letter which had not previously been put to ZZP for further comment include:

- (i) that the group lead considered it suspicious that the psychiatrist was no longer contactable eight days after writing her medical certificate dated 26 November 2024;
- (ii) that ZZP had given an alternative explanation to other group leads about their absence from work and had mentioned having an unhappy home and family life which caused their stress;
- (iii) that there was a difference in medical advice from the various specialists particularly with the psychotherapist's view that ZZP could return to work on a full-time basis on 6 January contrary to the psychiatrist recommended return date of 13 January; and
- (iv) that the group lead perceived that at the 4 December meeting, ZZP, the father, and the union representative were simply telling him what he wanted to hear.

[44] A fair and reasonable employer would have given ZZP the opportunity to comment on these concerns before making their final decision. Given what was at stake for ZZP, the defect here was not minor but significant and resulted in their being treated

⁶ The Act, s 103A(3)(b) and (c).

⁷ *Lal*, n 2, at [35].

unfairly.⁸ As it turned out, in June 2025, several months after ZZP's dismissal, the father found an email that could have been a complete answer to the former psychiatrist's sudden unavailability. The new evidence was a letter from the psychiatrist dated 25 November, stating that she was leaving private practice at the end of that month.

[45] While the late discovery of this information comes far too late to make a material difference for ZZP, the procedural unfairness is such that the overall decision to dismiss ZZP on medical grounds was not one that a fair and reasonable employer could have made in the circumstances. I find that they were unjustifiably dismissed.

Remedies

[46] ZZP seeks reinstatement to their previous role. Under s 125(2) of the Act, the Authority must provide for reinstatement wherever practicable and reasonable. It was submitted that this is so because reinstatement remains the primary remedy; that ZZP is more than capable to do the role; has previously received an important citation from the IRD Commissioner; harbours no ill will to the group lead; continues to have sessions with their psychotherapist and now has better tools to deal with any anxiety or stress; will ensure that they take their breaks; their fibromyalgia is well controlled; has returned home and has the support of their family; previously held a lower-level position for four months before leaving because it was not challenging enough; has had no further relapse with their depression and mental health; and while they have been away from the work place for a considerable period, this would be no different to onboarding a new team leader.

[47] The difficulty I have with reinstating ZZP is that they would be going back into a challenging call centre environment and into a leadership role in which they will once more be responsible for a number of direct reports. In that role, ZZP's mental resilience will regularly be called upon and tested time and time again. Not helping this assessment is the absence of an updated medical report from ZZP's current psychiatrist and/or their psychotherapist with neither being called upon or relied on to give evidence to the Authority which leaves an evidential gap that cannot be filled in by inference. As the applicant, it is ZZP's responsibility to prove their case to the required standard. The medical certificates before me are now no longer current and there were moments

⁸ The Act, s 103A(5).

in the investigation meeting that left me concerned that returning ZZP to the challenging arena of a call centre environment such as the IRD's would be setting them up to fail.

[48] I acknowledge the father's evidence that as a father, he would not put ZZP in a workplace environment that would compromise their mental health. However, in the absence of independent medical evidence, I am not satisfied that such an honest belief can be reasonably held given what has happened in the past. In my view, the risks to ZZP are simply too great for reinstatement to be practicable and reasonable and is declined.

Compensation

[49] It was submitted on ZZP's behalf that the level of distress suffered was in the mid-range of loss of \$40K. In *GF v Comptroller of the New Zealand Customs Service*,⁹ the Employment Court revised its compensation bands to account for inflation. In short, the lowest band or 'band 1', which is for low-level loss or damage, increased from \$0-\$10K to \$0-\$12K; 'band 2' or mid-range loss increased from \$10K-\$40K to \$12K-\$50K; and 'band 3' for high level loss or damage became \$50K and higher.

[50] A compensation amount of \$40K falls in the top of the range of the Employment Court's mid-range for loss at band 2. Awards at this level in the Authority would ideally be supported by evidence from third parties but ZZP has, for reasons not known, elected not to provide evidence from either their current psychiatrist or the psychotherapist. Though there is no immutable rule for such evidence to be provided,¹⁰ ZZP has had greater access and opportunity to adduce such information more so than other applicants.

[51] Any compensation award under s 123(1)(c) of the Act ought to reflect the hurt and humiliation suffered by an employee and cannot be used as a penalty to indicate disapproval of an employer's conduct.¹¹ ZZP stated that being dismissed came as a shock and caused them harm. It was the father's evidence that the dismissal had a devastating effect on ZZP's mental and physical wellbeing and that, by extension, the family was also affected.

⁹ *GF v Comptroller of the New Zealand Customs Service* [2023] NZEmpC 101, [2023] ERNZ 409 at [162].

¹⁰ *Waikato District Health Board v Archibald* [2017] NZEmpC 132 at [57].

¹¹ *Paykel Ltd v Ahlfeld* [1993] 1 ERNZ 334.

[52] ZZZP has worked for the IRD for a significant period and I accept that their role was an important part of their identity. The impact on ZZZP was made worse by comments in the final decision letter that suggested they had an unhappy family life which they deny and consider blatantly wrong, offensive, deeply hurtful and grossly insulting. I agree. Such comments are ill considered and lack empathy particularly as ZZZP had not been given the opportunity to comment on this concern and was mentally and emotionally vulnerable at the time. In all the circumstances, I consider a compensation award for hurt and humiliation of \$25K is warranted.

Lost wages

[53] Section 128 of the Act provides for reimbursement of lost remuneration. As ZZZP was paid one month's remuneration in lieu of notice and received a payment of 65 days for medical retirement, they have already received more than the standard award of three months' pay. It is understood that ZZZP found alternative employment in April 2025 but decided to leave that employment after four months because it was not challenging enough for them. While this is a decision that ZZZP is capable of making of their own accord, it is not one that the IRD should be made liable to pay additional lost wages and no relief is given as there has been a failure to mitigate one's loss.

Contribution

[54] Section 124 of the Act requires the Authority to consider the extent to which the actions of the employee contributed towards the situation that gave rise to the personal grievance. It was submitted on ZZZP's behalf that there is no evidence of contributory fault. However, this ignores the reality that contrary to earlier advice by their psychiatrist, it was ZZZP's decision to return to work in October 2024 which only resulted in a further relapse of their depression for which the IRD is not at fault. For contributing towards their own personal grievance, a 25 percent reduction to the remedies awarded is warranted.

Conclusion

[55] By not following a fair and proper process in dismissing ZZZP on medical grounds, the IRD has not satisfied the test of justification of s 103A of the Act for which it is ordered to pay ZZZP a reduced compensation award of \$18,750 under s 123(1)(c)(i) within 28 days from the date of this determination.

Costs

[56] Costs are reserved. The parties are encouraged to resolve any issue of costs between themselves.

[57] If the parties are unable to resolve costs, and an Authority determination on costs is needed, ZZP may lodge, and then should serve, a memorandum on costs within 21 days of the date of this determination. From the date of service of that memorandum, the IRD will then have 14 days to lodge any reply memorandum. On request by either party, an extension of time for the parties to continue to negotiate costs between themselves may be granted.

[58] The parties can anticipate the Authority will determine costs, if asked to do so, on its usual “daily tariff” basis unless circumstances or factors, require an adjustment upwards or downwards.¹²

Peter Fuiava
Member of the Employment Relations Authority

¹² For further information about the factors considered in assessing costs see: www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1.