

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2026] NZERA 79
3321701

BETWEEN	YAN ZHANG Applicant
AND	FRAMES DIRECT NZ LIMITED First Respondent
	ZHOU WANG Second Respondent

Member of Authority:	Marija Urlich
Representatives:	Michael Kim, advocate for the Applicant Tieniu Li, director of the first Respondent
Investigation Meeting:	On the papers
Submissions and information received:	9 December 2025, from the Applicant 21 January 2026, from the Respondents
Determination:	17 February 2026

COSTS DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] The Authority issued a determination on 25 November 2025 which found Mr Zhang had established against Frames Direct NZ Limited a personal grievance for unjustified dismissal and awarded compensatory remedies.¹ An order for arrears of annual leave and public holiday pay was also made in his favour, plus interest and a penalty ordered for breach of statutory obligations. No orders were made against Mr Wang. Costs were reserved and a timetable set if the parties were unable to resolve this issue themselves.

¹ *Yan Zhang v Frames Direct NZ Limited & Anor* [2025] NZERA 757.

[2] Mr Zhang filed a memorandum in accordance with the timetable seeking a costs award in his favour. Frames Direct has not. On 12 December 2025 Frames Direct's director, Mr Li wrote to Mr Zhang and the Authority seeking a stay of the Authority determination by consent. On 14 January 2026 the Authority wrote to the parties that the stay was declined, that a challenge did not operate as a stay and the parties were asked to confirm all relevant information was before the Authority so it could move to determine costs. On 21 January 2026 Frames Direct confirmed a challenge had been lodged as well as a stay application to the Court. It has not provided further information responding directly to Mr Zhang's costs memorandum. I am satisfied the parties have had a fair opportunity to put all relevant information before the Authority. It is appropriate that costs are determined by the Authority which will complete this matter in this forum.

Costs principles

[3] The Authority has power under clause 15 of Schedule 2 of the Act to award costs. This power is discretionary and must be used in a principled manner. Principles guiding the Authority's approach to costs include:

- The statutory jurisdiction to award costs is consistent with the Authority's equity and good conscience jurisdiction.
- Equity and good conscience is to be considered on a case by case basis.
- Costs are not to be used as a punishment or as an expression of disapproval for an unsuccessful party's conduct, although conduct which increased costs unnecessarily can be taken into account in inflating or reducing an award.
- Costs generally follow the event.
- Awards will be modest.
- Frequently costs are judged against a notional daily tariff.

Mr Zhang's claim for costs

[4] Mr Zhang has incurred total costs of representation of \$9,545.00 (including GST) supported by relevant information including an invoice. He submits a costs award of \$5,500.00 is warranted given:

- he was the successful party and costs should follow the event;
- he attempted unsuccessfully to resolve costs directly with Frames Direct;
- the investigation meeting required three attendances – the first was adjourned shortly after the scheduled start time because the respondents did not attend, the second date took most of a full hearing day and was adjourned to allow the parties to file further information and the third date was a resumption for 1-hour using audio visual technology; and
- the actions of the respondents have delayed and extended the investigation of the matter and caused additional cost and inconvenience.

Costs analysis

[5] Mr Zhang was the successful party and it is usual that costs follow the event and that the unsuccessful party will be required to make a contribution towards the successful party's costs. The starting point for assessing costs is the notional daily tariff. The applicable daily tariff is \$4,500 with each subsequent day at \$3,500. The starting point for assessing this costs award is \$4,500 and because this matter involved more than a total day of investigation meeting time an increase in the notional daily rate is warranted.

[6] The total cost of representation Mr Zhang has incurred is reasonable particularly given the range and complexity of matters for resolution which included a personal grievance and analysis of significant documentation to determine his status and the employing entity. A decrease in the tariff is not warranted.

[7] A fair costs award in Mr Zhang's favour, given all the relevant circumstances, including actual total hearing time and the inconvenience and cost of adjournment and resumption, is \$5,500 plus reimbursement of the filing fee of \$71.55.

Marija Urlich
Member of the Employment Relations Authority