

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2026] NZERA 99
3322641

BETWEEN	JAGJIT SINGH Applicant
AND	L&B FOODS LIMITED First Respondent
AND	VIVEK VIVEK Second Respondent

Member of Authority:	Helen van Druten
Representatives:	John Wood, advocate for the Applicant Sanjay Sharma, counsel for the Respondents
Submissions received:	22 January 2026 from the Applicant 23 January 2026 from the Respondents
Determination:	23 February 2026

COSTS DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] By determination of 8 January 2026, the Authority found that Jagjit Singh was unjustifiably dismissed and L&B Foods Limited was ordered to pay Mr Singh lost wages owed, holiday pay, public holiday pay and compensation pursuant to the Employment Relations Act 2000 (the Act).¹

[2] Costs were reserved for the parties to negotiate but no agreement was reached. The investigation meeting was conducted in person and took one and a half days. As Mr Singh was successful with his grievance claim, he now seeks an award of costs.

¹ *Singh v L&B Foods Limited & Anor* [2026] NZERA 13.

The application for costs

[3] Mr Singh's advocate seeks costs of \$6,250 and the Authority filing fee as per the Authority's normal daily tariff approach.

[4] Mr Sharma's submission proposes that costs should amount to \$3,000 on the basis that delays occurred due to factors caused by Mr Singh that extended the hearing into a further half day. Additionally, he claims the reduction in costs awarded on the basis that there was mixed success whereby Mr Singh was awarded less than a quarter of the amount sought.

Assessment

The Authority's costs approach

[5] The Authority's discretion to award costs is well established and arises from Section 15 of Schedule 2 of the Employment Relations Act 2000. The principles guiding the approach to costs recognise that:

- a. the statutory jurisdiction to award costs is consistent with the Authority's equity and good conscience jurisdiction;
- b. equity and good conscience are to be considered on a case-by-case basis;
- c. costs are not to be used as a punishment or as an expression of disapproval for an unsuccessful party's conduct, although conduct which increases costs unnecessarily can be taken into account in inflating or reducing an award;
- d. costs generally follow the event;
- e. awards of costs will generally be modest; and
- f. frequently, costs are judged against a notional daily tariff.²

Costs for Mr Singh

[6] As Mr Singh was successful in his personal grievance and obtained a compensatory remedy, an award of costs is appropriate.

² Employment Relations Authority "Practice Directions of the Employment Relations Authority Te Ratonga Ahumana Taimahi" www.era.govt.nz/assets/upload/practice-direction-of-era.
<https://www.era.govt.nz/assets/Uploads/practice-direction-of-the-employment-relations-authority.pdf>

Applying the daily rate

[7] As both parties are aware, the Authority's general approach is to apply a notional daily rate and only adjust that rate if persuaded that circumstances or other factors require an upward or downward adjustment.³ The current full daily rate is \$4,500 for the first day of an investigation meeting and \$3,500 for any subsequent day.

[8] The starting point for a consideration of costs in this matter is therefore \$6,250, being one full day of the Authority's notional daily tariff, plus an additional (non-consecutive) additional half day, before any upward or downward adjustment.

Adjusting the daily rate

[9] I consider there is merit in Mr Sharma's claim that there should be a downward adjustment in costs primarily because there were several claims made by Mr Singh that lacked the detail required. Despite removing four claims during the original case management conference, Mr Singh made several claims for wage and statutory leave entitlements that were not adequately evaluated. I accept that in part this was due to L&B Foods Ltd's failure to keep accurate wage and time records, but a lot of time in the investigation meeting was spent working through bank statements and pay records and evaluating additional evidence that could well have been evaluated prior with the information available to Mr Singh.

[10] Broadly assessed, I consider that the time taken to consider that additional evidence and work through that claim was around half a day. Costs are not to be awarded as a punishment, but this was conduct that unnecessarily increased the costs for L&B Foods Ltd.

[11] I balance this against Mr Wood's submission that L&B Foods Ltd cannot claim a reduction in costs where the s 130 obligations of the Act made this task more difficult for Mr Singh.

³ For further information about the factors considered in assessing costs see: www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1.

[12] The interpreter delays referenced by Mr Sharma were unfortunate but cannot be attributed to Mr Singh. The Authority acknowledges that this delay increased legal costs for both parties.

[13] No further reduction is warranted for the unsuccessful claims or proportionality of success. Whilst the principles-based approach means that mixed success can, in some circumstances, mean that the amount of costs should be reduced, I do not apply any further reduction. Mr Singh was not awarded the full amount claimed and some claims were not made out, however, most claims had an element of success, albeit not to the extent claimed by Mr Singh. In good conscience it would be inappropriate to make any further downwards adjustment on that basis.

[14] Accounting for the above, this brings an appropriate costs award down by half a day to \$4,500.

Order

[15] For the reasons given, within 28 days of this determination, L&B Foods Ltd and Mr Vivek, on a joint and several basis, must:

- a. pay \$4,500 to Mr Singh as a contribution to his actual and reasonable costs; and
- b. reimburse Mr Singh \$71.55 for the Authority filing fee.

Helen van Druten
Member of the Employment Relations Authority