

**IN THE EMPLOYMENT COURT OF NEW ZEALAND
AUCKLAND**

**I TE KŌTI TAKE MAHI O AOTEAROA
TĀMAKI MAKĀURAU**

**[2023] NZEmpC 4
EMPC 166/2022**

IN THE MATTER OF a challenge to a determination of the
 Employment Relations Authority

AND IN THE MATTER OF an application for costs

BETWEEN STUART YOUNG
 Plaintiff

AND PORT OF TAURANGA LIMITED
 Defendant

Hearing: On the papers

Appearances: E Lambert, advocate for plaintiff
 S Grice, counsel for defendant

Judgment: 26 January 2023

COSTS JUDGMENT OF JUDGE J C HOLDEN

[1] Having been successful in defending the plaintiff’s challenge to the Authority’s determination declining interim reinstatement, the defendant seeks costs.¹ This proceeding was agreed to be a category 2B proceeding for costs purposes under the Court’s guideline scale.²

[2] The defendant calculates scale costs as follows:

¹ *Young v Port of Tauranga Ltd* [2022] NZEmpC 201.

² “Employment Court of New Zealand Practice Directions” <www.employment.govt.nz> at No 16.

Step		Daily recovery rate	Time allocation	Total
2	Commencement of defence to challenge by defendant	\$2,390	1.5	\$3,585
11	Preparation for first directions conference	\$2,390	0.4	\$956
12	Filing memorandum for first directions conference	\$2,390	0.4	\$956
13	Appearance at first directions conference	\$2,390	0.2	\$478
36	Defendant's preparation of affidavits	\$2,390	2	\$4,780
39	Preparation for hearing	\$2,390	2	\$4,780
40	Appearance at hearing for sole representative	\$2,390	0.5	\$1,195
TOTAL			7	\$16,730

[3] The parties attempted to agree costs but have not managed to do so.

[4] The plaintiff seeks to have the decision on costs reserved until after the matter has been dealt with substantively.

[5] The Court has a broad discretion in awarding costs.³ The guideline scale has been provided to assist the Court and parties in this exercise. As noted in the Practice Directions, the scale is intended to support the policy objective that the determination of costs is predictable, expeditious and consistent.⁴

[6] There is nothing further before the Court, and it is appropriate for costs on the challenge to be resolved now. The plaintiff was unsuccessful. There is nothing in the

³ Employment Relations Act 2000, sch 3 cl 19.

⁴ Above n 2, at (4).

plaintiff's submissions that would displace the usual position on costs, which is that they follow the event. His representative overstates the Court's findings when she submits that he was "successful in three out of four pleaded reasons as to why he was unjustifiably dismissed". Those matters remain before the Authority.

[7] The plaintiff does not challenge the defendant's figures using the scale, and the defendant confirms that it is only seeking a contribution to its costs. The costs sought are appropriate.

[8] Accordingly, there is an order that the plaintiff pay the defendant \$16,730 towards its costs. Unless otherwise agreed between the parties, payment is to be made within 30 days of the date of this judgment.

J C Holden
Judge

Judgment signed at 1 pm on 26 January 2023