



[3] Mr Wilson seeks a total contribution towards his costs of \$2,500 based on the daily tariff approach, noting that the investigation meeting held was completed in less than one day.

[4] AZ Scaffolding has not lodged submissions in relation to the issue of costs.

### **Costs principles**

[5] The Authority has discretion to award costs, may order any party to pay costs and expenses as it thinks reasonable, and may apportion such costs and expenses between the parties as it thinks fit.<sup>2</sup>

[6] The principles as to the exercise of that discretion are well known, including that costs will generally follow the event, that awards will be modest, that Calderbank offers may be taken into account, and that costs are not to be used as a punishment or as an expression of disapproval of the unsuccessful party's conduct.<sup>3</sup>

[7] The daily tariff is usually taken as a starting point,<sup>4</sup> although not used in a rigid manner, with principled adjustments made having regard to the particular characteristics of a case.

### **Consideration**

[8] Mr Wilson was successful in defending and opposing the application made by AZ Scaffolding and it is appropriate that costs follow the event.

[9] The substantive proceeding involved the setting down of a one-day investigation meeting by audio visual link. The full day was ultimately not required and having regard to the time involved I consider the appropriate starting point for daily tariff approach would see a contribution of \$2,200 (\$4,500 for the first day, on the basis of the investigation meeting taking approximately three hours).

[10] Mr Wilson submitted that his total costs in relation to matter were \$2,500 plus GST. Having regard to the daily tariff, the costs actually incurred, and the absence of

---

<sup>2</sup> Employment Relations Act 2000, Schedule 2, clause 15.

<sup>3</sup> *PBO Limited (formerly Rush Security Limited) v Da Cruz* [2005] ERNZ 808 at [44] to [46].

<sup>4</sup> Employment Relations Authority Practice Direction, August 2023, <https://www.era.govt.nz/assets/Uploads/practice-direction-of-era.pdf>

any justification for indemnity costs to be awarded, I consider \$1,400 to be an appropriate contribution towards the costs incurred by Mr Wilson.

### **Orders**

[11] I order AZ Scaffolding (2017) Limited to pay Mr Wilson, within 28 days, the sum of \$1,400 as a contribution towards the costs he incurred in defending and opposing the application.

Rowan Anderson  
Member of the Employment Relations Authority