



Employment Court of New Zealand

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Best Health Foods Limited v Zhou [2022] NZEmpC 9 (2 February 2022)

Last Updated: 9 February 2022

IN THE EMPLOYMENT COURT OF NEW ZEALAND CHRISTCHURCH

I TE KŌTI TAKE MAHI O AOTEAROA ŌTAUTAHI

[\[2022\] NZEmpC 9](#)

EMPC 72/2021

IN THE MATTER OF	a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER OF	an application for costs
BETWEEN	BEST HEALTH FOODS LIMITED Plaintiff
AND	YI ZHOU Defendant

Hearing: On the papers
Appearances: Y Gu, agent for plaintiff
Y Zhou, defendant in person
Judgment: 2 February 2022

COSTS JUDGMENT OF JUDGE K G SMITH

[1] Best Health Foods Ltd was unsuccessful in challenging a determination of the Employment Relations Authority that it had constructively dismissed Yi Zhou.¹

[2] The issue of costs was reserved. Both parties represented themselves and are, therefore, not entitled to seek costs. However, an opportunity was provided to Mr Zhou to seek reimbursement if he had incurred any expenses in retaining an expert witness.

1 *Best Health Foods Ltd v Zhou* [\[2021\] NZEmpC 200](#).

BEST HEALTH FOODS LIMITED v YI ZHOU [\[2022\] NZEmpC 9](#) [2 February 2022]

[3] Mr Zhou sought \$430. His claim was divided into two parts. The first part was for reimbursement of fees he paid in having his expert witness give evidence. That invoice was for \$230.

[4] The second part of Mr Zhou's claim was for \$200, which was the civil filing fee he paid for a warrant to seize property from Best Health Foods, after the Authority's determination in his favour.

[5] Best Health Foods filed a brief memorandum in response. Relevantly, it did not dispute Mr Zhou's claim to be reimbursed for the expense incurred in retaining an expert. It did, however, object to the application including the civil filing fee. The company's further point in its memorandum, about the deduction of PAYE from the award in Mr Zhou's favour, is not relevant to the costs issue.²

[6] It is appropriate for Mr Zhou to be reimbursed for the out of pocket expenses incurred in retaining an expert. However, the civil filing fee was a cost incurred as part of enforcement proceedings in the District Court. It did not arise from Mr Zhou's defence to the challenge by Best Health Foods and the claim for it is disallowed.

Conclusion

[7] Best Health Foods is ordered to pay Mr Zhou \$230 to reimburse him for expert witness fees.

K G Smith Judge

Judgment signed at 2.15 pm on 2 February 2022

2. In any event the Authority's wage-related award was for the payment of a gross amount, which is the course usually taken. See, for example, *Restaurant Brands Ltd v Gill* [\[2021\] NZEmpC 186](#) at

[174] and [182].

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