

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2023] NZERA 155
3161481

BETWEEN RHONDA JEAN BURRIDGE
Applicant

AND DC LINEHAUL LIMITED
Respondent

Member of Authority: Antoinette Baker

Representatives: Applicant in person
Shima Grice, counsel for the Respondent

Submissions received: 13 March 2023 from the respondent
27 March 2023 from the applicant

Determination: 28 March 2023

COSTS DETERMINATION OF THE AUTHORITY

[1] I issued a determination on 28 February 2023¹ dismissing the claims brought by Ms Burridge that the respondent (DCL) unjustifiably dismissed her from its employment.

[2] The parties were asked to resolve costs between themselves. Costs have not been resolved. DCL has now applied for an award of costs. Submissions have been received.

¹ *Rhonda Jean Burridge v DC Linehaul Limited* [2023] NZERA 91

[3] A party should receive a reasonable contribution to costs incurred in achieving a successful result which includes successfully defending a claim brought against it. Costs are discretionary, modest, and are not a mechanism to punish the other party. Some cases may require costs to lie where they fall.²

[4] The Authority uses a notional daily tariff adjusting this up or down as appropriate depending on the case. Such an adjustment may take into consideration a liable party's means to pay costs, additional preparation required if a case is complex, and any conduct of a party that has unnecessarily increased costs.³

[5] The current tariff applied for a one-day Authority investigation meeting is \$4,500.00. This amount is considered a starting point for assessing a reasonable contribution to the costs incurred by a party preparing for and taking part in an investigation meeting.

[6] DCL asks for a \$4,500.00 contribution to its costs. It has provided invoices showing that its costs exceeded this.

[7] Ms Burridge was prompted by the Authority officer to provide a response to the application to costs. She provided this on 27 March 2023. She opposes paying anything towards DCL's legal costs. Her reasons appear to be that she is considering progressing the matter to the Employment Court; that there were things she says would have made a difference to her case that were not received by the Authority but sent in by her; that she has now obtained recorded conversations; that emails in evidence that were referred to had been altered; that she ended up with a large lawyer's bill when defending the criminal charges against her; that if she had been 'spoken to directly' the matter I decided would have had a different outcome.

² Employment Relations Act 2000, Schedule 2, clause 15 and *PBO Ltd v Da Cruz* [2005] 1 ERNZ 808, 819-820 and *Fagotti v Acme and Co Limited* [2015] NZEmpC 135 at 106-108.

³ As above.

[8] I am not satisfied that the reasons Ms Burrige has given support not ordering her to pay a contribution to DCL's costs. That Ms Burrige may be considering steps in relation to the substantive determination does not stop the process of a party applying for a contribution as to costs. That Ms Burrige is unhappy with the outcome and says there are reasons it should have been different are not matters I can take into account in considering the contribution to costs here. The criminal proceedings that Ms Burrige refers to and any costs she incurred with them do not impact on this matter.

[9] Ms Burrige was unsuccessful in her claims. I am satisfied based on the information before me that DCL is entitled to the claim it makes for costs. The Investigation meeting lasted almost a day, consistent with the day tariff of \$4,500.00.

[10] Accordingly, Rhonda Jean Burrige is to pay DC Linehaul Limited \$4,500.00 as a contribution to its costs in successfully defending this matter.

Antoinette Baker
Member of the Employment Relations Authority