

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2022] NZERA 168
3121340

BETWEEN ALEXIS DIETZ
 Applicant

AND GOOD FOOD VIBES
 LIMITED
 Respondent

Member of Authority: Pam Nuttall

Representatives: May Moncur for the Applicant
 Doug Cowan for the Respondent

Submissions received: 4 March 2022 and 20 April 2022 from the Applicant

Determination: 29 April 2022

COSTS DETERMINATION OF THE AUTHORITY

[1] In a determination dated 21 February 2022¹ I found that the applicant, Ms Alexis Dietz, had been unjustifiably dismissed from her employment and unjustifiably disadvantaged in her employment and that the respondent had breached its duty of good faith.

[2] This determination followed a one day investigation meeting to hear from witnesses for both parties and the provision of written legal submissions by the parties' representatives.

[3] Costs were reserved and the parties were encouraged to settle this issue between themselves. Unfortunately they have been unable to do so. The applicant has filed

¹ *Alexis Dietz v Good Food Vibes Limited* [2022] NZERA 45.

submissions in respect of costs, but no submissions were made by the respondent, Good Food Vibes Limited.

Application for costs

[3] The applicant seeks an award of costs in the sum of \$4,500 on the basis that she was successful in her personal grievance claims and that genuine settlement efforts were made during mediation and the investigation process.

[4] It was also initially submitted that the respondent's approach to the matter and the costs issue needlessly increased the applicant's costs and that an uplift from the daily tariff approach usual in the Authority would be reasonable.

Principles

[5] The power of the Authority to award costs is set out at clause 15 of Schedule 2 of the Employment Relations Act 2000. The principles and approach adopted by the Authority in respect of this power are well settled and outlined in *PBO Ltd (formerly Rush Security Ltd) v. Da Cruz*²

[6] One of these principles is that costs are modest. Principles also include that costs are reasonable and that they normally follow the event. Costs are not to be used as a punishment or expression of disapproval of the unsuccessful party's conduct.

Costs award

[7] I see no reason for not applying these principles in this case. Ms Dietz was successful in most of her claims (although penalties were not awarded against the respondent for a breach of good faith) and costs normally follow the event.

[8] Costs must be moderate and reasonable. Despite the initial submission, the applicant subsequently sought to have costs assessed on the basis of the Authority's daily tariff. I do not find a basis for an uplift in costs awarded in the grounds submitted.

² *PBO Ltd (formerly Rush Security Ltd) v. Da Cruz* [2005] 1 ERNZ 808.

[9] Costs in the Authority are made in accordance with a daily tariff amount which is currently set at \$4,500.00 for the first day of hearing. This matter required a one day investigation meeting.

[10] I consider it appropriate to base the level of costs on the normal tariff in the Authority as at the date of filing.

[11] Accordingly Good Food Vibes Limited is ordered to pay Ms Alexis Dietz the sum of \$4,500 towards her legal costs.

Pam Nuttall
Member of the Employment Relations Authority