

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

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

[2022] NZERA 135  
3109457

BETWEEN	CRAIG HOGAN Applicant
AND	SP BLINDS LIMITED Respondent

Member of Authority:	Leon Robinson
Representatives:	James Turner, counsel for the Applicant Dean Organ, advocate for the Respondent
Submissions received:	25 March 2022 from the Applicant Nil from the Respondent
Determination:	8 April 2022

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**COSTS DETERMINATION OF THE AUTHORITY**

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**Application for costs**

[1] Craig Hogan succeeded in his application to the Authority to resolve personal grievances he had for unjustifiable disadvantage and unjustifiable dismissal. He was granted formal orders to resolve his personal grievances. He now makes application that following that event, he ought to have an award of costs in his favour.

**The Authority's approach**

[2] Clause 15 of the 2nd Schedule to the Employment Relations Act 2000 gives the Authority a wide discretion to order a party to pay another party's costs and disbursements as the Authority thinks reasonable.

[3] The principles for assessing and awarding costs in the Authority are so well established that there is no need to set out all of these factors here, see *PBO Ltd (formerly Rush Security Ltd) v D Cruz*<sup>1</sup>.

[4] The Authority applies a 'notional daily tariff' based approach to assessing costs. The current notional daily tariff is \$4,500.00 for the first day of an investigation meeting and \$3,500.00 for each subsequent day.

[5] That approach gives the Authority a notional starting tariff, which must then be adjusted to reflect the particular circumstances of each case. There is therefore no need to adopt any other costs regime as the Authority can adjust the notional daily tariff, on a principled basis, as required.

[6] The Authority's notional daily tariff based approach is widely understood by those appearing in the employment institutions. The notional daily tariff basis approach to costs reflects the Authority's unique investigatory and problem solving role.

[7] The 'notional daily tariff' is the approach that has been used for assessing costs in this matter.

### **The reasoning**

[8] In its determination dated 11 March 2022 the Authority reserved the question of costs but encouraged the parties to agree the matter between them. In the event that the matter could not be agreed, Mr Hogan was permitted 14 days in which to submit an application and SP Blinds a further 14 days thereafter to respond. Mr Hogan duly lodged his application on 25 March 2022. SP Blinds did not submit a reply but I note that it did by email of 17 March 2022 agree to the sum sought by Mr Hogan. Mr Hogan now desires the Authority's formal determination because payment did not accompany SP Blinds' notification of agreement.

[9] I am satisfied that it is appropriate that Mr Hogan be granted an order that SP Blinds Limited make a contribution to his costs. Mr Hogan shall have the usual day one tariff payment of \$4,500.00. I consider it appropriate that there be an uplift of \$1,000.00 because I accept that there ought to have been better cooperation with the

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<sup>1</sup> [2005] 1 ERNZ 808.

Authority's call for evidence and the additional attendances required involved increased costs of representation.

**The result**

[10] Accordingly, I order SP Blinds Limited to pay to Craig Hogan the sum of \$5,500.00 (Five thousand and five hundred dollars).

Leon Robinson  
Member of the Employment Relations Authority