

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2017] NZERA Auckland 167  
5641892

BETWEEN AVINASH JHORAD  
Applicant

A N D CAFÉ EPHEBUS LIMITED  
Respondent

Member of Authority: T G Tetitaha  
Representatives: K Usmar, Advocate for Applicant  
N Gunaydin/M Bell, Representatives for Respondent  
Investigation Meeting: On the papers  
Submissions Received: 28 March 2017 from Applicant only  
Date of Determination: 9 June 2017

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**COSTS DETERMINATION OF  
THE EMPLOYMENT RELATIONS AUTHORITY**

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**A. Café Ephesus Limited is directed to pay \$4,500 to Avinash Jhorad as a contribution towards his legal costs.**

**Employment relationship problem**

[1] The Authority in its substantive determination dated 27 February 2017<sup>1</sup> found the applicant had been unjustifiably dismissed and owed wage arrears. The respondent was ordered to pay \$2,500 compensation and wage arrears totalling \$13,385.73.

[2] The applicant now applies for costs. His actual costs were \$9,276.76.

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<sup>1</sup> *Jhorad v Café Ephesus Ltd* [2017] NZERA Auckland 60.

### **What is the starting point for assessing costs?**

[3] The Authority adopts a notional daily tariff based approach to costs.<sup>2</sup> The current notional daily tariff is \$4,500.<sup>3</sup> This matter involved a one day investigation meeting. The starting point for assessing costs is therefore \$4,500.

### **Are there any factors that warrant adjusting the notional daily tariff?**

[4] The applicant seeks increased costs to reflect:

- a) Non-responsiveness of respondent to communications requiring a direction to mediation.
- b) Non-compliant wage/time records requiring substantial time by the applicant's representative to organise for hearing.

[5] Costs for preparation for mediation including requests for directions do not necessarily attract a higher costs award. This file would have been referred or directed to mediation if it had not occurred before hearing. \$3,500 of the invoice pertains to mediation costs. No increased award for this conduct is required.

[6] Preparation of evidence is encompassed within the notional tariff. This does not justify any increased award.

[7] There is nothing justifying any reduction in costs.

[8] Café Ephesus Limited is directed to pay \$4,500 to Avinash Jhorad as a contribution towards his legal costs.

**TG Tetitaha**  
**Member of the Employment Relations Authority**

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<sup>2</sup> *Mattingly v Strata Title Management Ltd* [2014] NZEmpC 15 at [16].

<sup>3</sup> Practice Note 2 Costs in the Employment Relations Authority para.4.