

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2015] NZERA Auckland 174
5523190

BETWEEN AMIT KUMAR
Applicant
AND NZ MOBILES LIMITED
Respondent

Member of Authority: TG Tetitaha
Representatives: M Nutsford, Advocate for Applicant
S Sharma, Counsel for Respondent
Investigation Meeting: On the papers
Submissions: 5 May 2015 from Applicant
1 May 2015 from Respondent
Date of Determination: 19 June 2015

COSTS DETERMINATION OF THE AUTHORITY

A. The respondent is ordered to pay the applicant \$3,500.00 towards its actual legal costs.

Employment relationship problem

[1] The Authority in its substantive determination dated 21 April 2015¹ held that the applicant was unjustifiably dismissed. The respondent was ordered to pay lost remuneration of \$6,666.66 less PAYE and compensation of \$1,000.

[2] The applicant now applies for costs. At the end of the hearing the parties agreed the Authorities daily notional tariff may apply.

¹ *Amit Kumar v NZ Mobiles Ltd* [2015] NZERA Auckland 115

[3] I directed the parties to file their invoices. The applicant has submitted his time record. It records time of 41.19 hours at \$250 per hour inclusive of mediation totalling \$11,842.13. The applicant advocate submits his practice is to bill the client after costs have been determined.

[4] It is somewhat unusual to not bill a client until costs have been awarded. However I do have a copy of the time record showing the breakdown of the fees incurred. The time incurred appears to be reasonable.

[5] The correct approach to assessing costs in this matter is for the Authority to adopt its usual notional daily tariff based approach to costs.² The current notional daily tariff is \$3,500. This matter involved a one day investigation meeting. The starting point for assessing costs is therefore \$3,500.

[6] There were no factors increasing or decreasing the start point raised by the parties.

[7] The respondent is ordered to pay the applicant \$3,500 towards its actual legal costs.

TG Tetitaha
Member of the Employment Relations Authority

² *Mattingly v Strata Title Management Ltd* [2014] NZEMPC 15 at [16]