

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2023] NZERA 723
3208259

BETWEEN

JOHANNA LESCURE
Applicant

AND

HOKI DENTAL LIMITED
Respondent

Member of Authority: Philip Cheyne

Representatives: Ruth Pettengell, advocate for the Applicant
No appearance for the Respondent

Submissions Received: 16 October 2023 from the Applicant
None from the Respondent

Date of Determination: 6 December 2023

COSTS DETERMINATION OF THE AUTHORITY

[1] In an earlier determination, I found that Hoki Dental Limited had unjustifiably dismissed Johanna Lescure and ordered the company to pay reimbursement and compensation to Ms Lescure.¹ Costs were reserved. I now have submissions for Ms Lescure. Nothing relevant to the issue of costs has been received from Hoki Dental Limited. This determination resolves the question of costs.

[2] Angelo Ioanides is the principal of Hoki Dental Limited. The Authority did receive from Mr Ioanides a form of “Notice”. None of its contents is germane to the issue of costs.

¹ *Johanna Lescure v Hoki Dental Limited* [2023] NZERA 569.

[3] Ms Lescure incurred costs of a representative to prepare and present her case. Ms Lescure was successful and is entitled to costs as a matter of principle.

[4] Costs of \$4,500.00 for a full day are sought. The investigation meeting took substantially less than half a day as the respondent did not appear. Despite that, Ms Lescure's representative had to prepare for the investigation meeting as usual.

[5] An uplift from the Authority's standard daily tariff approach is sought based on Ms Lescure's offer before the investigation meeting to settle the matter for somewhat less than she was later awarded by the Authority. The offer was made without prejudice except as to costs.

[6] The second factor advanced to support an uplift are the communications to the Authority from Hoki Dental Limited before the investigation meeting. They are described as "erroneous". The convoluted text of the communications obscured their irrelevance to any of the matters at issue in the case. Ms Lescure's representative nonetheless had to spend time reviewing the communications in order to discount them. The style of Hoki Dental Limited's communications needlessly increased the time spent by Ms Lescure's representative and therefore the cost to Ms Lescure.

[7] A third factor is the travel and accommodation costs for Ms Lescure's representative. I discount this point. Ms Lescure could have engaged a local representative, so travel and accommodation costs for the representative she chose are not recoverable against Hoki Dental Limited.

[8] The merit of the first two factors (particularly the second factor) is sufficiently recognised by setting costs at half of the daily tariff rate for the first day.

[9] Ms Lescure also seeks to recover from Hoki Dental Limited a further \$71.55 for the lodgement fee paid to commence the action in the Authority.

Order

[10] Hoki Dental Limited is to pay Johanna Lescure costs of \$2,321.55.

Philip Cheyne
Member of the Employment Relations Authority