

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

**I TE RATONGA AHUMANA TAIMAHI
TE WHANGANUI-Ā-TARA ROHE**

[2021] NZERA 68
3081015

BETWEEN ANDREW NGOVI
 Applicant

AND TRANZURBAN HUTT VALLEY
 LIMITED
 Respondent

Member of Authority: Geoff O’Sullivan

Representatives: Bede Laracy, advocate for the Applicant
 Mike Gould, counsel for the Respondent

Investigation Meeting: On the papers.

Submissions Received: 23 November 2020 from the Applicant
 7 December 2020 from the Respondent

Date of Determination: 24 February 2021

COSTS DETERMINATION OF THE AUTHORITY

[1] In my determination [2020] NZERA 472, I determined that the applicant Andrew Ngovi had been unjustifiably dismissed by the respondent Tranzurban Hutt Valley Limited (THVL). In that determination costs had been reserved. The parties have been unable to resolve this issue between themselves and both parties have filed submissions in respect of costs. The investigation meeting in this matter concluded at approximately 3.30pm in the afternoon. However, THVL was to forward a summary of the working hours of Mr Ngovi for his final six weeks of employment, showing the average hours worked per week. This information was provided on 17 August 2020. Mr Ngovi responded on 18 August 2020 and there was a minor dispute between the parties regarding the calculation of the average weekly

hours. This was resolved by THVL accepting Mr Ngovi's calculation. Accordingly, although the investigation meeting itself ended at approximately 3.30pm, more time was spent in regard to the calculation of the average weekly hours worked by Mr Ngovi.

[2] Both parties acknowledged that the general approach to costs in the Employment Relations Authority is to award costs to the successful party according to the daily tariff of \$4,500 per day. In essence, Mr Ngovi is submitting that as the investigation meeting took most of the day, there should be no reduction in the daily tariff but if there was to be a reduction, then it ought to be reduced to \$3,500.

[3] THVL submits that any shortened time should be reflected in costs and that the appropriate level is \$3,375.

[4] Neither party considered the fact that further submissions were required. On this basis I consider costs reflecting a one-day investigation meeting are appropriate.

Costs

[5] I order THVL pay Mr Ngovi the sum of \$4,500 by way of costs.

Geoff O'Sullivan
Member of the Employment Relations Authority