

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2019] NZERA 113
3031137

BETWEEN MICHAEL NICOLLE
Applicant

AND GOLEMAN WELLINGTON
CLEANING LIMITED
Respondent

Member of Authority: Andrew Dallas

Representatives: Johnny Sanders, counsel for the Applicant
Paul Pa'u, advocate for the Respondent

Submissions received 7 February 2019 for the Applicant
27 February for the Respondent

Determination: 28 February 2019

COSTS DETERMINATION OF THE AUTHORITY

Introduction

[1] By determination issued on 21 January 2019, the Authority made findings and gave orders in respect of Michael Nicolle's employment relationship problem with Goleman Wellington Cleaning Limited.

[2] The determination reserved costs and encouraged the parties to resolve these themselves. It advised the parties that if asked to determine costs, the Authority's assessment would start at the applicable daily tariff of \$4500.

[3] In a memorandum on costs subsequently lodged Mr Nicolle sought an order for costs of \$4,500. He said he had incurred total costs of more than this, and of the incurred most arose in responding to Goleman's counterclaim against him, which was dismissed by the Authority.

[4] Goleman said, after traversing the relevant principles, that costs should be \$3000. It said the investigation meeting did not occupy the entire day, questioning and cross-examination was handled efficiently, Mr Nicolle was only awarded a modest penalty and it acted responsibly the course of the litigation.

[5] It is not clear what the significance is, or what weight is to be given, to the “modest” penalty awarded to Mr Nicolle given he was wholly successful in his penalty claim against Goleman in the first instance. Goleman also said Mr Nicolle also refused to go to mediation. However, as his application was one of compliance with a mediated record of settlement, refusal in such circumstances, in the absence of a direction from the Authority, where appropriate, is neither unusual nor unreasonable.

Result

[6] Having regard to all the circumstances of this matter, I have decided the daily tariff of \$4,500 is appropriate. This must be paid to Mr Nicolle within 14 days of the date of this determination. It is also appropriate that Mr Nicolle be reimbursed the Authority’s lodgement fee of \$71.56. This must also be paid to him within 14 days.

Andrew Dallas
Member of the Employment Relations Authority