

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI
TĀMAKI MAKĀURAU ROHE**

[2025] NZERA 733
3329860

BETWEEN HEIDI PEARSON
Applicant

AND GULF HARBOUR
INVESTMENTS LIMITED
Respondent

Member of Authority: Robin Arthur

Representatives: Allan Halse, advocate for the Applicant
Kelly Rowell, counsel for the Respondent

Submissions received: From the Respondent on 22 October 2025. None from
the Applicant

Determination: 13 November 2025

COSTS DETERMINATION OF THE AUTHORITY

[1] By determination issued on 24 September 2025 the Authority declined Heidi Pearson's personal grievance application against Gulf Harbour Investments Limited (GHIL).¹ The determination reserved the question of costs. The parties were encouraged to resolve that issue themselves. They were unable to do so and GHIL lodged a memorandum seeking an order for costs.

[2] Although Ms Pearson has filed a challenge to the Authority's determination, the parties were advised the Authority would follow its usual process for determining costs.² Employment Court guidelines allow for any challenge to a costs determination to be addressed in the same proceedings as the challenge to the substantive determination.

¹ *Pearson v Gulf Harbour Investments Limited* [2025] NZERA 591.

² EMPC 493/2025.

[3] Ms Pearson has not used the opportunity offered to lodge a reply memorandum to GHIL's memorandum seeking costs.

[4] Costs have now been determined on the basis of the Authority's usual practice and the submissions and additional information in GHIL's cost memorandum.

Factors

[5] In determining costs the Authority applies well-established tenets to the particular circumstances of the case.³ Those tenets recognise that a successful party should receive a contribution to its reasonably incurred costs and expenses; costs should generally be modest and may not be used to punish an unsuccessful party; the nature of the case may allow for an order that costs lie where they fall; and the Authority may use a notional 'daily rate' as a starting point to assess costs. The current daily rate is \$4,500 for the first day of any investigation meeting, with a further \$3,500 for each additional day.

[6] Undue rigidity in applying the daily rates is avoided by upward or downward adjustments appropriate to the particular case. Those adjustments may take account of settlement offers made by either party, the financial means of a liable party to pay costs, the preparation required in particularly complex matters and whether conduct of any party unnecessarily increased the costs they incurred.

GHIL sought an uplift on the usual tariff

[7] GHIL asked for an order of \$12,000 as a contribution to its legal costs in responding to Ms Pearson's grievance. It gave two reasons for seeking this uplift above the usual tariff of \$8,000 for the two-day investigation meeting held about this matter. Firstly, Ms Pearson had not accepted a settlement offer from GHIL which would have put her in a better position than the eventual result of the Authority investigation meeting. Secondly, GHIL said its costs were increased by having to respond to evidence of one witness which it said was irrelevant.

³ Employment Relations Act 2000, Schedule 2 clause 15(1) and www.era.govt.nz/determinations/awarding-costs-remedies.

Assessment

[8] As GHIL has succeeded in responding to Ms Pearson's grievance application, the starting point for assessment of costs was \$8,000.

Uplift for not accepting settlement offer

[9] Ms Pearson did not respond to an offer GHIL made in March 2025 to contribute \$7,000 to her costs of representation and to pay for some counselling costs in return for withdrawing her claim. Made three months before the investigation meeting, this was a reasonable offer in light of the eventual outcome. If accepted, Ms Pearson would have been more than \$7,000 better off than she was through the later Authority determination.

[10] One week before the investigation meeting Ms Pearson offered to settle her claim if GHIL paid her \$25,000 compensation as well as a contribution to her costs of representation and counselling. GHIL reject that offer which, in light of the outcome in the Authority determination, was a reasonable decision on its part.

[11] Those circumstances warranted an uplift on the usual tariff from \$8,000 up to \$10,000.

No uplift for responding to evidence GHIL considered irrelevant

[12] During preparation for the Authority investigation GHIL had objected to Ms Pearson arranging for an additional witness to give his views, as a previous manager in the business, about how GHIL and associated companies had handled some earlier employment issues. His evidence was to support the notion that there was a pattern of unfair treatment which he said was similar to what had happened to Ms Pearson. The Authority accepted this could be relevant and allowed the evidence to be given.

[13] The Authority's determination later found that evidence was not sufficient to support Ms Pearson's criticisms of why GHIL ended her employment. On that basis GHIL submitted the costs award against her should be increased because it had incurred some extra costs in responding to that "irrelevant" evidence.

[14] A failure of evidence to be as strong or as useful as one party might hope, as happened here for Ms Pearson, does not mean arranging for that evidence to be heard is, therefore, conduct that unnecessarily and unreasonably increased costs for other

party. It was simply an unsuccessful strand to her case. The corresponding success of GHIL is recognised in the ordinary tariff, not an uplift its usual rate.

No other relevant factors

[15] There were no other submissions or information on factors that might have required any further or different adjustment of the appropriate level of a costs order.

Order

[16] Ms Pearson must pay costs of \$10,000 to GHIL within 28 days of the date of this determination.⁴

Robin Arthur
Member of the Employment Relations Authority

⁴ See www.era.govt.nz/determinations/awarding-costs-remedies.