

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

[2018] NZERA Christchurch 145
3017511

BETWEEN KATRINA ROCHFORD
 Applicant

AND GOLF OF MEXICO LIMITED
 Respondent

Member of Authority: Peter van Keulen

Representatives: Michael McDonald, for Applicant

Submissions received: 10 September 2018 from Applicant
 No submissions received from Respondent

Determination: 9 October 2018

COSTS DETERMINATION OF THE EMPLOYMENT RELATIONS AUTHORITY

The substantive determination

[1] In a determination dated 6 August 2018¹, I determined that Golf of Mexico Limited had unjustifiably dismissed Katrina Rochford. I awarded Ms Rochford remedies of \$14,000.00 compensation and \$4,954.56 (gross) reimbursement.

[2] In my determination, I reserved costs in order to give the parties an opportunity to try and resolve the question of costs. The parties have been unable to agree costs and Mr McDonald now applies for costs on behalf of Ms Rochford.

¹ [2018] NZERA Christchurch 110.

Application for costs

[3] Mr McDonald's application, in the form of cost submissions, was lodged with the Authority on 10 September 2018. These submissions were lodged outside of the 28-day period that I had directed in my determination for applying for costs. Mr McDonald advised that the delay in lodging the submissions arose because of his illness and workload. Mr McDonald sought leave to lodge the application for costs outside of the 28-day period. I am satisfied that this is appropriate, and grant this leave.

[4] The Authority then served these submissions on Golf of Mexico on 11 September 2018. In line with my determination, Golf of Mexico was advised that it had 14 days to respond to Mr McDonald's submissions. It was also advised that if it did not respond I would proceed to determine the costs application based solely on Mr McDonald's submissions.

[5] Nothing has been received from Golf of Mexico within this period or within the further 14 days that I have waited in case there were some unforeseen circumstances preventing Golf of Mexico from responding in time.

[6] I am satisfied that Golf of Mexico was aware of the application for costs made against it. It was aware, from my determination and the correspondence serving the costs application on it, that it had 14 days to respond, and that if it failed to respond I would proceed to determine costs without any submission from it.

[7] In these circumstances given that it has not responded within 28 days I will now proceed to deal with the costs application.

Analysis

[8] I have considered the power to award costs, set out in clause 15 of Schedule 2 of the Employment Relations Act 2000. I have also considered the principles set out in *PBO Ltd*

(formerly *Rush Security Ltd*) v. *Da Cruz*² and other relevant Employment Court and Court of Appeal decisions³.

[9] I am satisfied that it is appropriate to award costs to Ms Rochford, as she was the successful party in this claim. And it is appropriate to base the award of costs on the daily tariff.

[10] My investigation meeting took approximately one quarter of a full day, so based on the daily tariff of \$4,500.00 for the first day of an investigation meeting \$1,125.00 is the starting point.

[11] I must consider if the daily tariff should be adjusted up or down for any particular reason. I am satisfied that there are no features of this case that warrant an adjustment to the daily tariff.

[12] Golf of Mexico Limited must pay Ms Rochford \$1,125.00 as a contribution to the costs she has incurred in this matter plus disbursements of \$71.56 for the filing fee on the statement of problem.

Peter van Keulen
Member of the Employment Relations Authority

² [2005] 1 ERNZ 808

³ *Victoria University of Wellington v. Alton-Lee* [2001] ERNZ 305, *Blue Star Print Group (NZ) Ltd v. Mitchell* [2010] NZCA 385, *Booth v. Big Kahuna Holdings Ltd* [2015] NZEmpC 4, *Stevens v. Hapag-Lloyd (NZ) Ltd* [2015] NZEmpC 28, *Davide Fagotti v. Acme & Co Ltd* [2015] NZEmpC 135