

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

**I TE RATONGA AHUMANA TAIMAHI
TE WHANGANUI A TARA ROHE**

[2025] NZERA 530
3216319

BETWEEN

TIMOTHY RYDER
Applicant

AND

LEOPARD LIME LIMITED
Respondent

Member of Authority: Shane Kinley

Representatives: Alex Kersjes, advocate for the applicant
James Eade, for the respondent

Investigation Meeting: On the papers

Submissions: Up to 22 August 2025

Determination: 27 August 2025

COSTS DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] In a preliminary determination issued on 12 November 2024¹ I found Timothy (Tim) Ryder was employed by Leopard Lime Limited (LLL) from 20 September 2022 until his employment was ended by LLL on 3 November 2022.² In a second determination dated 13 May 2025 I found Mr Ryder had been unjustifiably dismissed by LLL.³

[2] I ordered LLL to pay Mr Ryder \$20,000 in compensation under s 123(1)(c)(i) of the Employment Relations Act 2000 (the Act) and \$3,920 for lost wages under ss 123(1)(b) and 128 of the Act.⁴

¹ *Timothy Ryder v Leopard Lime Limited* [2024] NZERA 668.

² *Ibid* at [39].

³ *Timothy Ryder v Leopard Lime Limited* [2025] NZERA 266 at [22].

⁴ *Ibid* at [34].

[3] Costs were reserved in the hope the parties would be able to settle this issue between themselves.⁵ Unfortunately, they have been unable to do so, and Mr Ryder now seeks costs. The first investigation meeting for this matter finished mid-afternoon, while the second investigation meeting finished early afternoon. I indicated my preliminary view was the notional daily rate for three quarters of a day for the first investigation meeting and half a day for the second investigation meeting was the appropriate starting point for a determination of costs.⁶

Delay in seeking costs

[4] On 31 July 2025 Mr Ryder lodged an application for costs, including an application for leave to seek costs. This followed a query from Mr Ryder's representative on 30 July 2025 about when the second determination would be issued. It appears email issues meant they had not received the second determination, so it was resent to them.

[5] At my direction the Authority Officer advised the representatives that while I was minded to grant leave for costs to be determined in this case, it appeared there had been no direct communications between the parties to attempt to resolve costs. I therefore advised the parties should attempt to resolve costs between themselves in the first instance. If the parties failed to reach agreement, then I advised I would determine the costs application.

[6] On 6 August 2025 Mr Ryder's representative advised they had been unable to resolve costs due to a lack of response from LLL and lodged an updated application for costs. On 22 August 2025 Mr Eade lodged a memorandum in response. I have proceeded to determine the application for costs based on those documents.

Contribution to Costs

[7] The power of the Authority to award costs is contained in cl 15 of sch 2 of the Act. The Authority has adopted a daily tariff approach as the starting point for considering costs. This is well known, and the current daily tariff is \$4,500 for the first

⁵ Ibid at [35].

⁶ Ibid at [38].

day of hearing, and \$3,500 for subsequent hearing days.⁷ The parties can expect the Authority to adhere to this approach, unless there is good reason to depart from it.

[8] The principles and the approach adopted by the Authority in which an award of costs is made are settled and set out in *PBO Limited (formerly Rush Security Limited) v Da Cruz*⁸ as confirmed in *Fagotti v Acme and Co Limited*.⁹ The principle set out in the above cases is that costs are to be modest. As to quantification, the principle is one of a reasonable contribution to costs actually and reasonably incurred. Costs are not to be used as a punishment or expression of disapproval of the unsuccessful party's conduct.

Submissions

[9] Mr Ryder sought costs of three quarters of a day for the first investigation meeting and half a day for the second investigation meeting, totalling \$5,625.00, with both days based on the first day of hearing. Disbursements of \$301.55 were sought. An invoice of costs totalling \$17,818.35 including GST and disbursements was provided, with Mr Ryder saying the costs sought were fair and reasonable. Mr Ryder said there were multiple good faith attempts to resolve matters prior to the investigation meeting, which were not engaged with, although no uplift was sought on this basis.

[10] Mr Ryder also addressed the delay in seeking costs, advising his representative had undertaken “a thorough investigation through the related email mailboxes ... [and] confirm we have not received the determination until 30 July 2025”. Mr Ryder said the application for costs had then been made promptly and sought leave to file the application out of directed timeframe, referring to another determination of the Authority in *Rockit Packing Company Limited and Ors v Mortimer*, where leave was granted for costs to be sought on the basis “... costs are in issue, and I consider the Authority is required to deal with that issue”.¹⁰ Mr Ryder said multiple attempts were made to reach agreement with LLL on costs and to arrange payment of the amounts awarded, but no response from LLL.

[11] LLL submitted Mr Ryder's representative had failed to contact its representative within the 28 day timeframe specified in the second determination, with no issues raised

⁷ For further information about the factors considered in assessing costs, see: <https://www.era.govt.nz/determinations/awarding-costs-remedies/>

⁸ [2005] 1 ERNZ 808.

⁹ [2015] NZEmpC 135 at 114.

¹⁰ *Rockit Packing Company Limited and Ors v Mortimer* [2024] ERA 300 at [4].

before the application for costs was made. LLL considered “after 78 days, there is no legal obligation from me to honour any invoice submitted”.

Analysis

[12] Through the Authority Officer I indicated I was minded to grant leave for costs to be determined in this case, if the parties failed to reach agreement to resolve costs between themselves. Mr Ryder’s representative says efforts have been made to contact LLL’s representative, which are not denied, and LLL has made submissions on the costs application.

[13] I consider it appropriate to grant leave having regard to attempts having been made to resolve the issue of costs as between the parties.

[14] I consider Mr Ryder is entitled to recover a reasonable contribution to the legal costs he incurred.

[15] Mr Ryder is seeking costs based on the daily tariff and my preliminary view that the notional daily rate for three quarters of a day for the first investigation meeting and half a day for the second investigation meeting was the appropriate starting point for a determination of costs.

[16] No uplift is sought and I can see no reason why an uplift would be appropriate.

[17] LLL’s submission is essentially an objection to any costs award being made, due to the delay in Mr Ryder seeking costs. LLL did not provide any reasons why the starting point identified in my preliminary view should not apply.

[18] Given I have granted leave for costs, LLL’s submissions do not assist me in considering any option other than a costs award based on the daily tariff.

[19] I am not satisfied sufficient evidence has been provided to support the claimed disbursements invoiced to Mr Ryder which were described as “printing, binding, stationery, general” at the rate of \$200 plus GST. I do accept the filing fee should be reimbursed.

Order

[20] Leopard Lime Limited is ordered to pay Timothy Ryder within 28 days of the date of this determination the sum of \$5,625.00 as a contribution to costs and to reimburse the filing fee of \$71.55.

Shane Kinley
Member of the Employment Relations Authority