

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2013] NZERA Auckland 325
5407413

BETWEEN TUIONO TAUO
 Applicant

A N D COWBOYS BAR LIMITED
 Respondent

Member of Authority: Anna Fitzgibbon

Representatives: Emily Franco, Advocate for Applicant
 Sandra Callanan, Counsel for Respondent

Submissions Received: 10 July 2013 from Applicant
 29 July from Respondent

Date of Determination: 31 July 2013

COSTS DETERMINATION OF THE AUTHORITY

**A. Cowboys Bar Limited is ordered to contribute \$3000 towards Ms
 Tuiono Tauo’s legal costs.**

[1] In a substantive determination dated 08 July 2013¹ the Authority determined Ms Tauo had been unjustifiably dismissed by Cowboys Bar Limited (“Cowboys”). Both parties have filed submissions as to costs.

[2] The Authority’s power to award costs arises from Schedule 2, clause 15 of the Employment Relations Act 2000 (the Act). This confers a wide discretion on the Authority to award costs, on a principled basis.

¹ [2013] NZERA Auckland 288

[3] The principles guiding the Authority's approach to costs are set out by the Full Employment Court in *PBO Ltd (formerly Rush Security Ltd) v. Da Cruz* [2005] 1 ERNZ 808. Those principles are so well recognised I do not need to restate them.

[4] The general principle is that costs follow the event, and I see no reason to depart from that in this case. Accordingly, Ms Tauo as the successful party is entitled to a contribution towards her legal costs.

[5] The Employment Court in *Carter Holt Harvey v. Eastern Bays Independent Industrial Workers Union & Ors*² observed that a notional daily tariff approach, which was to be adjusted in a principled way, was best suited to the Authority's unique jurisdiction. I adopt that approach.

[6] Ms Callanan for Cowboys submits that no order for costs should be made primarily because despite Ms Franco's submission, there had not been considerable preparation for the investigation meeting on behalf of Ms Tauo. Ms Franco says an award of \$3000 is appropriate in respect of her time and attendances.

[7] The normal starting point for costs in the Authority is \$3500 per day, *Fifita (aka Bloomfield) v. Dunedin Casinos Limited*³.

[8] This matter involved an investigation meeting of one full day. I have adopted a notional daily tariff of \$3500 as my starting point and now consider whether there are any factors which would warrant adjusting that notional tariff.

[9] Ms Franco seeks costs of \$3000 which is less than the notional tariff. Taking into account both Ms Franco's and Ms Callanan's submissions I am prepared to reduce the notional daily tariff by \$500. An appropriate award of costs in this matter is \$3000.

Anna Fitzgibbon
Member of the Employment Relations Authority

² [2011] NZEmpC 13

³ [2012] NZEA Christchurch at p.2019