

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2024] NZERA 442
3238959

BETWEEN

MILLIE TECSON
Applicant

AND

PRIDE PROPERTY
MANAGEMENT LIMITED
Respondent

Member of Authority: Peter van Keulen

Representatives: Linh Baillie, advocate for the Applicant
Mary-Jane Thomas, counsel for the Respondent

Investigation Meeting: On the papers

Submissions Received: 8 July 2024 from the Respondent
No submissions received from the Applicant

Date of Determination: 24 July 2024

COSTS DETERMINATION OF THE AUTHORITY

The substantive determination

[1] In a determination dated 31 May 2024 I dismissed Millie Tecson's claims against Pride Property Management Limited (PPM).¹

¹ *Millie Tecson v Pride Property Management Limited* [2024] NZERA 322.

[2] In my determination I reserved costs; PPM now seeks costs.

Application for costs

[3] Counsel for PPM seeks an award of costs on the basis of a one-day investigation meeting with an uplift of \$1,000 as Ms Tecson did not accept an offer from it prior to the investigation meeting.

[4] Ms Tecson did not respond to the application for costs.

Analysis

Costs in the Authority

[5] The power of the Authority to award costs is set out at clause 15 of Schedule 2 of the Act. The principles and approach adopted by the Authority in respect of this power are outlined in the Authority's practice note on costs.²

Costs for PPM

[6] Costs in the Authority will normally follow the event; that is, a successful party should be awarded costs.

[7] PPM defended Ms Tecson's claims completely and therefore it is entitled to an award of costs.

Applying the daily tariff

[8] The quantum of a costs award in the Authority is usually calculated by applying the daily tariff. The daily tariff is an amount awarded for each day of an investigation meeting at

² For further information about the factors considered in assessing costs, see: www.era.govt.nz/determinations/awarding-costs-remedies/#awarding-and-paying-costs-1.

the rate of \$4,500 for the first day of an investigation meeting and \$3,500 for every additional day.

[9] I am satisfied that the daily tariff is the correct approach to setting costs in this matter.

[10] My investigation into this matter took half of one day and therefore the quantum based on the daily tariff is \$2,250.

Adjusting the daily tariff

[11] I must consider whether the daily tariff amount should be adjusted.

[12] PPM refers to a Calderbank offer it made to Ms Tecson to settle her claims on 20 February 2024 that Ms Tecson did not accept.

[13] The daily tariff can be adjusted for relevant factors, including where Calderbank offers made prior to the investigation meeting were not accepted by an unsuccessful applicant.³

[14] The Calderbank offer in this matter is relevant to the award of costs for PPM. Ms Tecson rejected the Calderbank offer and continued with claims that were unsuccessful and therefore unnecessary; Ms Tecson would have gained more from accepting the offer and would have avoided the ongoing costs for both parties by ending her claims at that time.

[15] I am satisfied that the offer sent by PPM was a valid Calderbank offer and in the circumstances is a relevant consideration for the costs to be awarded in this matter. This means I will apply an increase to the daily tariff and set this uplift at \$1,000.

³ A Calderbank offer is an offer made by one party, normally a respondent, to settle the claim on terms. The offer is marked “without prejudice save as to costs”. The purpose of a Calderbank offer is to not only to attempt to settle a claim but by using the stated words the offering party is reserving the right to bring the offer to the Court’s (or in this case the Authority’s) attention if the claim is not settled. This is so that the offer can be used for assessing costs once the claim has been determined.

Order

[16] Ms Tecson must pay Pride Property Management Limited \$3,250.00 as a contribution to its costs in this matter.

Peter van Keulen
Member of the Employment Relations Authority