

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

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

[2024] NZERA 517
3232599

BETWEEN CARLOS ADOLFO
GONZALEZ TORRES
Applicant

AND TENNIS PLUS LIMITED
Respondent

Member of Authority: Andrew Gane

Representatives: Karen Tamayo for the Applicant
Trudie von Huben for the Respondent

Investigation Meeting: On the papers

Submissions and further information received: 1 July 2024 from the Applicant
18 July 2024 from the Respondent

Determination: 28 August 2024

COSTS DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] In my determination dated 11 June 2024, I found Carlos Torres was owed wage arrears and interest from Tennis Plus Limited (TPL).¹

[2] In my determination I also reserved costs and encouraged the parties to resolve any issues of costs between themselves.

[3] The parties have been unable to resolve costs.

¹ *Carlos Torres v Tennis Plus Limited* [2024] NZERA 343.

Application for costs

[4] Mr Torres seeks an order for costs against TPL. Mr Torres seeks payment of \$1,000.00 in costs and disbursements.

The Authority's Investigation

[5] This application for costs was determined on the papers without holding an investigation meeting.²

The Parties' Submissions

Mr Torres Submissions

[6] Mr Torres submits that a reasonable amount for the costs award is his actual representation costs of \$1,000.00.

TPL's Submissions

[7] Mr Torres' application for costs was served on TPL. TPL responded advising they will abide by the Authority's determination.

Analysis

Costs in the Authority

[8] The power of the Authority to award costs is contained in cl 15 of sch 2 of the Employment Relations Act 2000. The principles and the approach adopted by the Authority in which an award of costs is made are settled.

Costs follow the event

[9] The usual principle for costs is that a successful party is entitled to a contribution towards their representation costs and I find there is no reason to depart from that.

² Employment Relations Act 2000, s174D.

Application of the daily tariff

[10] The Authority has adopted a daily tariff approach as the starting point for considering costs. The costs based on the tariff would exceed the costs claimed by Mr Torres and any award must be limited to costs that were actually incurred.

[11] Mr Torres claim for wage arrears was investigated by AVL and lasted approximately half a day. Mr Torres' representative and TPL's representative later lodged submissions with the Authority.

[12] In the circumstances of this case, I find it is reasonable to award Mr Torres' actual costs of representation.

Conclusion

[13] Mr Torres was the successful party and is entitled to an award of costs of \$1,000.00 and is also entitled to payment of \$71.56 for the lodgement fee.

Order

[14] Tennis Plus Limited is ordered to pay Mr Torres as a contribution to his costs in this matter and disbursements of \$1,071.56. This is to be paid within 28 days of this determination.

Andrew Gane
Member of the Employment Relations Authority