

**IN THE EMPLOYMENT COURT OF NEW ZEALAND
AUCKLAND**

**I TE KŌTI TAKE MAHI O AOTEAROA
TĀMAKI MAKĀURAU**

**[2023] NZEmpC 208
EMPC 2/2023**

IN THE MATTER OF	a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER OF	an application for costs on good faith report
BETWEEN	CARRINGTON RESORT JADE LP Plaintiff
AND	TONI MAHENO Defendant

Hearing:	On the papers
Appearances:	W Tan, agent for plaintiff A Kersjes, advocate for defendant
Judgment:	21 November 2023

**COSTS JUDGMENT OF JUDGE KATHRYN BECK
(Application for costs on good faith report)**

[1] On 6 October 2023, I issued an interlocutory judgment in relation to a good faith report provided by the Employment Relations Authority at the Court's request.¹ I found that Carrington Resort Jade LP (Carrington) did not participate in the Authority's investigation in a manner that was designed to resolve the issues involved,² had not engaged with the Court's processes and had proved unwilling to communicate with Court registry staff.³ The judgment determined Ms Maheno's

¹ *Carrington Resort Jade LP v Maheno (No 3)* [2023] NZEmpC 175.

² At [14]

³ At [22].

entitlement to costs, and the parties were invited to agree about them. If they could not agree, they were invited to file memoranda.⁴

[2] The parties did not agree.

[3] On 19 October 2023, Mr Kersjes, Ms Maheno's representative, filed a brief memorandum seeking costs of \$5,497.00 based on the Employment Court Costs Guideline Scale.⁵ He said that that attempts to engage with the plaintiff have been unsuccessful.

[4] The company had 15 working days to reply to the memorandum. Despite being prompted by the Court registry, it has taken no steps.

[5] It is not clear how Mr Kersjes has reached the figure of \$5,497. The defendant reviewed the draft report of the Authority but advised she had no comment to make and then only filed brief submissions in this Court when the report was being considered. It has been agreed that this proceeding should be allocated category 2 band B for costs purposes. On the basis that one set of brief submissions were filed, I consider that 1.5 days at a rate of \$2,390 per day is appropriate.

[6] Accordingly, I am satisfied that the amount of \$3,585 is appropriate in the circumstances.

Conclusion

[7] Carrington is ordered to pay Ms Maheno costs of \$3,585 within 14 days of the date of this judgment.

Kathryn Beck
Judge

Judgment issued at 12 pm on 21 November 2023

⁴ At [27].

⁵ "Employment Court of New Zealand Practice Directions" <www.employmentcourt.govt.nz> at No 18.