

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

AA 16/09  
5137086

BETWEEN                      GEOFFREY BALL  
                                         Applicant  
  
AND                                B C ULUGIA DRAINAGE  
                                         LTD  
                                         Respondent

Member of Authority:      Dzintra King  
  
Representatives:            Applicant In Person  
                                         Fa'atele Ben Ulugia, Advocate for Respondent  
  
Investigation Meeting:      12 January 2009  
  
Determination:               20 January 2009

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**DETERMINATION OF THE AUTHORITY**

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**Employment Relationship Problem**

[1]     The applicant, Mr Geoffrey Ball, says he has been unjustifiably dismissed by the respondent, B C Ulugia Drainage Ltd. The respondent is owned and operated by Mr Fa'atele Ulugia and his wife, Christine. The applicant is the brother of Christine Ulugia.

[2]     On 7 March Mr Ulugia had a job for which Mr Ball asked Mr Ulugia to ask the client to bring a breaker to break up the concrete. The client delivered the breaker and Mr Ball became frustrated because he could not break the concrete with it. Mr Ulugia told him not to worry as he was breaking it with a sledge hammer. Mr Ulugia said he saw Mr Ball walking around with the wheelbarrow talking to himself.

[3]     Mr Ulugia dropped Mr Ball off at the bus stop on his way home. About half an hour later he received a phone call from the client saying he had managed to get a truck for the following day to deliver some metal and asking Mr Ulugia if he wished to come in the following day to spread it.

[4] The client also told Mr Ulugia that he did not wish to have Mr Ball working on the site and he could provide a labourer if one was needed. The client told Mr Ulugia that he had asked Mr Ball to be careful about the top of the blocks as he might damage them. Mr Ball told him it was not his fucking problem and to tell it to someone who gives a shit. He repeated this and then said it was not his job as he was a drainlayer.

[5] Mr Ulugia tried to contact Mr Ball but his phone was turned off. Next morning Mr Ball sent a text to Mr Ulugia asking him to give him a call. Mr Ulugia phoned and said he would pick Mr Ball up for work but that he needed to apologise to the client. Mr Ulugia told Mr Ball what the client had alleged had been said and Mr Ball did not deny it. Mr Ulugia said he was on his way to pick him up and Mr Ball said not to bother as he wouldn't be waiting and wasn't going to apologise to anybody.

[6] Mr Ball said in the course of two phone calls Mr Ulugia gave him an employment warning during the first call, then told him he did not have to listen to this shit. He said that during the second call Mr Ulugia fired him and again told he did not have to listen to this shit. Mr Ulugia denies this. He said he did tell Mr Ball that he was not to appear on any of the construction sites the company worked on claiming that he worked for the company. He also said that if Mr Ball was not allowed on a work site he and his wife could not help him out.

[7] Having heard from and seen the parties I have no hesitation in preferring Mr Ulugia's account of what took place.

[8] Mr Ball was told what he was alleged to have said, asked to apologise, refused to do so and said he would not be waiting to be picked for work. Mr Ball was not dismissed and does not have a personal grievance.

Dzintra King

Member of the Employment Relations Authority