

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
CHRISTCHURCH**

CA52A/10  
5142718

BETWEEN VEENA BHALLA  
Applicant  
AND THE ULTIMATE CARE  
GROUP LIMITED  
Respondent

Member of Authority: Paul Montgomery  
Representatives: David Beck, Counsel for Applicant  
Darren Mitchell, Advocate for Respondent  
Investigation Meeting: 26 November 2009  
Submissions Received: 23 March 2010 for respondent  
26 March 2010 for applicant  
Determination: 30 March 2010

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**COSTS DETERMINATION OF THE AUTHORITY**

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[1] In determining the substantive issues between the respective parties, the Authority found in favour of the respondent. Counsel have attempted to resolve the costs issue but have been unable to do so.

[2] Mr Mitchell, acknowledging the applicant's legally aided status, submits that a contribution of \$4,000 to his client's reasonably incurred costs would be appropriate. Actual client-solicitor costs totalled \$8,917.00 plus GST. Counsel requests, pursuant to s.40(4) Legal Services Act 2000, the Authority specify the amount that the applicant would have been ordered to pay had this section not affected the applicant's liability.

[3] For the applicant, Mr Beck submits this is a case in which costs ought to lie where they have fallen citing the applicant's modest income from her job as a retail assistance.

[4] I accept Mrs Bhalla is of modest means however, I am of the view that costs would usually follow the event in this case. I also accept the applicant is an honest person who was in pursuit in what she genuinely believed to be a personal grievance. Regrettably, that belief was misplaced.

[5] In the circumstances, which are unexceptional, the applicant is to pay the respondent the sum equal to the contribution made by her in securing the legal aid grant.

[6] But for the operation of s.40, and there being no exceptional circumstances in the conduct of the applicant's case, I would have ordered costs in favour of the respondent in the sum of \$2,750.00 in the light of *PBO Ltd (formerly Rush Security Ltd) v. Da Cruz* [2005] ERNZ 808.

Paul Montgomery  
Member of the Employment Relations Authority