

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

**I TE RATONGA AHUMANA TAIMAHI
ŌTAUTAHI ROHE**

[2019] NZERA 682
3032431

BETWEEN	NICOLA COLVILLE Applicant
AND	ERIN FEGAN First Respondent
AND	DENNIS NOLAN t/a NELSON WINDOW CLEANING Second Respondent
AND	BEACH HOSTEL LIMITED Third Respondent

Member of Authority: Geoff O'Sullivan

Representatives: Luke Acland, counsel for the Applicant
Steven Zindel, counsel for the Respondents

Submissions Received: 07 November 2019 from the Respondents

Date of Determination: 28 November 2019

COST DETERMINATION OF THE AUTHORITY

[1] On 25 October 2019, the Authority issued a determination dismissing Ms Colville's claims that she had been unjustifiably dismissed and unjustifiably disadvantaged during her employment. The Authority also found she was not due any unpaid wages or holiday pay.

[2] Although costs were reserved in the determination, the Authority noted that both parties had a grant of legal aid to bring and defend these proceedings and consequently, the question of costs would be subject to the requirements of ss 45 and 46 of the Legal Services Act 2011.

[3] The determination also provided, that if a determination of the Authority on costs was required, Ms Fegan and Mr Nolan could lodge a memorandum of costs within 28 days of the date of the determination. Ms Colville would then have 14 days from the date of service to lodge a memorandum in reply.

[4] Ms Fegan and Mr Nolan filed a memorandum of costs with the Authority on 7 November 2019 and on the same date, Ms Colville's representative has advised that he did not intend filing submissions on the basis his client was legally aided.

[5] Counsel for the respondents notes in his submissions that he was aware the applicant, Ms Colville, was legally aided and that in terms of s 45(2) of the Legal Services Act 2011, there would be no costs awarded against her except in exceptional circumstances.

[6] Notwithstanding this, counsel for the respondents has requested an order setting out what costs would have been awarded against the applicant were it not for the fact she was legally aided.

[7] The Authority normally uses a daily tariff when addressing a costs claim. The current starting point is \$4,500 for an investigation's first day. From there adjustments may be made depending on the circumstances.

[8] In this present case, if the applicant had not been legally aided, in reliance on s 45 (5) of the Legal Services Act 2011, the Authority would have ordered costs of \$4,500, against the applicant, on the basis the investigation took one day.

Geoff O'Sullivan
Member of the Employment Relations Authority