

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2012] NZERA Auckland 275  
5337593

BETWEEN

RASHMI BHOLA  
Applicant

A N D

PREET ENTERPRISES  
LIMITED t/a KESS HAIR &  
BEAUTY  
Respondent

Member of Authority: K J Anderson

Representatives: M Robson, Counsel for Applicant  
J Gandhi, Counsel for Respondent

Investigation Meetings 10 October 2011 and 19 March 2012 at Auckland

Date of Determination: 13 August 2012

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**DETERMINATION OF THE AUTHORITY**

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**Employment relationship problem**

[1] The applicant, Mrs Bhola, claims that she was unjustifiably dismissed on 30 December 2010. Mrs Bhola asks that the Authority find that she has a personal grievance and award her the remedies of reimbursement of wages along with compensation, pursuant to s 123 of the Employment Relations Act 2000. Mrs Bhola also claims unpaid annual holiday pay of the gross sum of \$2,666.96. Mrs Bhola also says that she is owed arrears of wages totalling \$2,115.49. This sum includes a claim for payment for days in lieu of working on public holidays. Conversely, the respondent, Preet Enterprises Limited (PEL) says that Mrs Bhola was not dismissed; rather she walked away from or abandoned her employment.

[2] The Authority heard evidence from Mrs Bhola and from her husband, Mr Subhash Bhola. For PEL there is evidence from: Mr Gurpreet Arora, Mr Jitendra Kumar, Ms Manleen Thind, Ms Mofida Zabeen, Ms Rajinder Kaur and Mr Terry

Mischefski. A number of relevant documents have also been produced to the Authority. All of the material evidence has been closely considered by the Authority, albeit it may not be specifically referred to in this determination.

### **Background**

[3] On 2 November 2009, Mrs Bhola commenced her employment with PEL at a salon owned by the company; trading as Kess Hair and Beauty. Mrs Bhola was employed as a hairdresser and beautician. The starting wage rate was \$13.50 per hour and this increased to \$15.50 per hour on 2 August 2010. Mrs Bhola says that the wage increase shows that her employer was happy with her work performance.

[4] The evidence of Mrs Bhola is that she was not given an employment agreement until 2 August 2010, the same date as she received the wage increase mentioned above. Whether the two events are connected is not clear. It appears that Mrs Bhola had an issue in regard to her hours of work before receiving the employment agreement, and subsequently. The hours of work provisions contained in the agreement (clause 5.1) state that:

#### **Full Time Hours of Work**

The employee's hours of work shall be at least 38 to 45 hours per week on Mondays to Sundays, between the hours of Mondays [sic] to Wednesday 9:00am to 6:00pm, Saturdays 9:00am to 6:00pm, Sunday 9:00am to 6:00pm, Thursday and Friday 9:00am to 9:00pm.

[5] The evidence of Mrs Bhola is that while her employment agreement provided for her to work 40 hours per week, she was always pressured to work longer hours. But the agreement says that Mrs Bhola's hours of work shall be "at least 38 to 45 hours per week". Mrs Bhola also takes issue with having to work after 6:00pm on occasions, but the employment agreement provides for two late nights each week for the salon, Thursday and Friday, whereby Mrs Bhola could be required to work until 9:00pm. Mrs Bhola also says that she was "forced" to work on Sundays. But the agreement allows for Sunday to be a working day.

[6] The evidence of Mr Gurpreet Arora, the owner and managing director of PEL, is that he offered Mrs Bhola an employment agreement after about four weeks into her employment but she declined it, but she then approached him for an agreement in August 2010, as she "needed it" for the purposes of applying for permanent residency in New Zealand. Mr Arora also says that at the same time (August 2010) Mrs Bhola

requested a loan of \$3,000 to pay for legal fees and to send money back to India; and he gave her the sum of \$3,000. Mrs Bhola told the Authority that she doesn't know anything about the \$3,000 referred to by Mr Arora, but this is not something that the Authority has to determine albeit it does, perhaps, raise an issue in regard to why the monies claimed by Mrs Bhola have been withheld by PEL.

[7] In regard to the issue of Mrs Bhola working on Sundays, Mr Arora attests that she never indicated any dissatisfaction about having a provision in the employment agreement that required her to work on Sundays. Mr Arora denies that Mrs Bhola was ever forced to work on Sundays. Indeed, the oral evidence of Mrs Bhola to the Authority is that she said she did not want to work on Sundays and this was "okay" as far as Mr Arora was concerned, but after two months into her employment, she was asked to work on Sundays. Given that the employment agreement allows for Sunday work and there is no tangible evidence of Mrs Bhola objecting to such or not being paid appropriately, the Authority is not required to make any findings about this issue.

[8] The evidence of Mrs Bhola refers to matters relevant to her claims for payment for working on public holidays, but as this matter is addressed later in this determination, the Authority is not required to analyse this matter further.

### **The written warning**

[9] While Mrs Bhola makes no mention of receiving a warning dated 24 November 2010, Mr Arora's evidence is that some problems arose some weeks after Mrs Bhola commenced employment at the salon. Mr Arora's wife, Ms Manleen Thind, works as a receptionist at the salon and Mr Arora says that she became upset about comments made to other staff by Mrs Bhola about personal matters concerning Mr Arora and his family. The evidence of Mr Arora is that Mr Jitendra Kumar, the manager of the salon, verbally warned Mrs Bhola that she should not engage in discussions pertaining to family and personal matters concerning Mr Arora. Mr Arora says that he spoke to Mr Bhola about the problem in the presence of Mrs Bhola, and that Mr Bhola apologised on behalf of his wife and assured Mr Arora that the problem would not arise again. Mr and Mrs Bhola deny that this discussion took place.

[10] The further evidence of Mr Arora is that at about the same time that he was dealing with the issue of Mrs Bhola's inappropriate comments to other staff, he became aware that the salon had received a number of complaints from clients who

were not happy about returning for services from Mrs Bhola. Mr Arora says that a common concern of customers was that Mrs Bhola was arrogant and unwilling to listen to the customers requirements. Mr Arora says that Mr Kumar spoke to Mrs Bhola about the customer complaints but without any effect. I record at this point that the Authority received a written witness statement from Mr Kumar who was to give evidence on behalf of PEL, but he did not appear before the Authority, despite a second investigation meeting being held; largely to hear his evidence. There is some conflict in the evidence of Mr Kumar and that of Mrs Bhola regarding certain events. However, as Mr Kumar has not made himself available, the Authority is left to determine certain matters on the balance of probabilities, with less weight being given to the evidence of Mr Kumar, due to his failure to make himself available to answer questions from the Authority, or be cross-examined by counsel for Mrs Bhola.

[11] The further evidence of Mr Arora is that there continued to be complaints coming from customers in regard to Ms Bhola's work. He says that he offered support and training to Mrs Bhola. Also his mother, Mrs Rajinder Kaur, who has 22 years experience in the industry, gave Mrs Bhola some advice about providing service to customers. Mr Arora says that Mrs Bhola also had "very bad breath" and he received complaints from customers and staff about this. Mr Arora attests that as this was a delicate matter he was cautious about raising this with Mrs Bhola and made suggestions that she should perhaps chew mints or receive some assistance from a dentist.

[12] Mr Arora gave evidence about continuing complaints from customers and his belief that Mrs Bhola was taking customers at her home. He says that he spoke to her about this and she denied giving her cellphone number to clients and servicing them at home, despite corroborative evidence of this from other staff. Mr Arora says that he verbally warned Mrs Bhola about her actions and advised her of the consequences, including the termination of her employment.

[13] The evidence of Mr Arora is that the continuing complaints from customers and the actions of Mrs Bhola were "destroying the business reputation" and he spoke to her about this but there was no improvement. Mr Arora says that he spoke to Mrs Bhola on 24 November and gave her a formal warning in writing. This takes the form of a letter dated 24 November 2010:

Dear Rashmi,

I am writing to advise you that this letter serves as a final warning in relation to your employment with Kess Hair & Beauty, Sylvia Park. You have failed to comply with clause 10.2(iii) and (iv) of your employment agreement even after being warned a number of times. Please refer to your employment contract in relation to the above clauses. Any further breach of any of the above clauses of your agreement will result in termination of your employment. In case of your deliberate attempt to affect the reputation of the salon and any attempts involving unreasonable behaviour will result in immediate termination of your employment. I also wish to advise you that Preet Enterprises Limited will no longer support your application with New Zealand Immigration for permanent residency due to uncertainty in your employment circumstances.

[14] The provisions of the employment agreement referred to in the letter, being clause 10.2(iii) and (iv), are:

**10.2 Termination for serious misconduct**

Notwithstanding any other provision in this agreement, the employer may terminate this agreement summarily and without notice for serious misconduct on the part of the employee. Serious misconduct includes, but is not limited to:

- (i) Theft
- (ii) Dishonesty
- (iii) Harassment of a work colleague or customer
- (iv) Serious or repeated failure to follow a reasonable instruction
- (v) Deliberate destruction of any property belonging to the employer
- (vi) Actions which seriously damage the employer's reputation.

[15] Mr Arora has not explained exactly what the "harassment of a work colleague or customer" (clause 10.2(iii)) involved or what the "serious or repeated failure to follow a reasonable instruction" (clause 10.2(iv)) related to. Mrs Bhola has referred to the warning as being influential in regard to her departure from her employment but has not raised a separate grievance in relation to it which is surprising, particularly given the withdrawal of the employer's support for Mrs Bhola's application to New Zealand Immigration for permanent residency in New Zealand. Indeed, from the evidence of Mr Arora, one gets the clear impression that he had determined that the tenure of Mrs Bhola's employment had a limited time frame.

[16] Mrs Bhola says that as a result of the warning and in an apparent effort to counteract it, she gathered together what are effectively reference letters from other

salon staff and customers, all of which are complimentary to the customer service skills and manner of Mrs Bhola. One of the references (dated 2 December 2010) is from another employee, Ms Mofida Zabeen, who says that she provided it on the understanding that she was assisting Mrs Bhola with her application for residency. But given the overall criticism of Mrs Bhola in Ms Zabeen's witness statement, this seems questionable. On the other hand, the evidence of Mr Arora is that because he withdrew his support for Mrs Bhola's residency application, she went about procuring references from customers when working with them; as well as from other staff.

### **The events of 30 December and 31 December 2010 – the departure of Mrs Bhola**

[17] The evidence of Mrs Bhola is that on 30 December 2010, she was working as normal and had planned to leave at 6:00pm. Mrs Bhola says that when she wanted to leave she was told that she had to stay and complete another client appointment. Mrs Bhola says that when she informed that she could not stay and would be leaving at 6:00pm, she was told by Mr Arora that: "*I was fired*". Mrs Bhola says that this occurred in front of her colleagues.

[18] When questioned by the Authority about the circumstances regarding her departure on 30 December 2010, Mrs Bhola said that she wished to go to her church (temple) and leave the workplace at 6:00pm. Mrs Bhola says that she told Mr Arora this but he said: "*If you don't attend these clients, don't come tomorrow*". Mrs Bhola told the Authority that she was crying when she left the salon.

[19] The evidence of Mr Arora is somewhat different to that of Mrs Bhola. He says that Mrs Bhola started work at 9:15am that morning rather than 9:00am as expected. Mr Arora was at the reception area that day taking client bookings as it is a busy time of the year. He says that he asked Mrs Bhola to have an early lunch as she was not busy at the time, and it was expected that the salon would be busy after lunch; hence Mrs Bhola may not get the chance to have lunch at the usual time. The evidence of Mr Arora is that Mrs Bhola ignored his advice and at about 2:00pm, when the salon was busy with clients waiting:

*All of a sudden Rashmi refused to take on any more clients who were waiting in the waiting area and told me she was going to have lunch despite knowing there were other people waiting to get service from her.*

Mr Arora says that it is normal practice, when the salon is busy, for staff to indicate when they are going to have their lunch break, so that client booking times can be scheduled accordingly.

[20] The evidence of Mr Arora is that Mrs Bhola refused to service clients “after numerous requests” from him. Mr Arora says that some customers were not prepared to wait and left without receiving any service. Mr Arora says that:

*I was so embarrassed at the time as it was a serious misconduct on Rashmi's part as she was very unprofessional and her actions were destroying business reputation. I warned Rashmi that if she refused to service any further clients without giving any notice for a break in advance, it would amount to serious misconduct to which she replied in a very loud voice “fire me, why don't you fire me then?”*

Mrs Bhola denies that she told Mr Arora to “fire” her as he says. However, I prefer the evidence of Mr Arora about this as his evidence is credible in its detail, whereas Mrs Bhola makes no mention in her evidence of this confrontation.

[21] The further evidence of Mr Arora is that at about 5:30pm on 30 December 2010, the waiting area of the salon was full of clients and he had stopped taking clients as he knew that based on the “service speed” of Mrs Bhola and the nature of the service required by clients, the salon could “easily” manage them until 6:00pm. Mr Arora says that Mrs Bhola was aware of the number of clients waiting and he had advised her about the waiting clients at 5:40pm. Mr Arora alleges that Mrs Bhola spent more time on a particular customer and “somehow managed her time” until exactly 6:00pm. Mr Arora says that a service that would normally take five minutes took 15 minutes and that in the extra 10 minutes, Mrs Bhola could have served two further clients who just wanted their eyebrows shaped; this apparently, takes Mrs Bhola five minutes “maximum” says Mr Arora. The evidence of Mr Arora is that when Mrs Bhola came out of the beauty room at 6:00pm he asked her to service the waiting customers and that she refused and told him that she had to go home. Mr Arora attests that he reminded Mrs Bhola that the customers could not be sent away as they had been waiting for half an hour. Mr Arora says that:

*Despite numerous requests from me, Rashmi refused to serve the customers. She responded that she does not want to work here any more anyway. Rashmi then left the salon. On this day as she had started late, she could have stayed back and made up the time that she had started late.*

[22] The further evidence of Mr Arora is that staff present at the time heard the conversation between him and Mrs Bhola<sup>1</sup> and also present in the store were customers who were “stunned” and could not believe how Mrs Bhola refused to serve them. Mr Arora says that he was very upset and he apologised to the customers and gave them gift vouchers as they were not happy that they had to wait so long and then were refused service by Mrs Bhola.

[23] The evidence of Mr Auroa pertaining to the departure of Mrs Bhola on 30 December 2010 is corroborated by that of Mr Kumar and Ms Zabeen, but as has been alluded to in the submissions for Mrs Bhola, the relevant content of their witness statements is almost word for word similar to the written evidence of Mr Auroa. Nonetheless, the evidence of Mr Auroa is concise, albeit there is some obvious supposition on his part about the actions of Mrs Bhola regarding the time she took to service her last customer.

### **31 December 2010**

[24] The evidence of Mrs Bhola is that she returned to the salon on 31 December 2010. Mr Auroa was not there. Mrs Bhola says that she spoke to Ms Thind and Ms Kaur and that they told her that she: “... was not wanted any more.” Mrs Bhola attests that the other two women refused to pass a message to Mr Auroa. But the evidence of Ms Thind and Ms Kaur is that when Mrs Bhola came to the salon on 31 December 2010, she did not speak to either of them but instead went directly to Mr Kumar. Both women say that they overheard the discussion between Mrs Bhola and Mr Kumar. They say that Mrs Bhola apologised to Mr Kumar for her actions the day before and she said that she was angry with Mr Arora. Mr Kumar was asked to advise Mr Arora that he (Mr Arora) should write a formal termination letter. The evidence of Ms Thind and Ms Kaur is that Mrs Bhola told salon customers sitting in the waiting area that she had “been fired by her boss” and thereby created “a scene.”

### **Termination letter**

[25] In response to Mrs Bhola’s request, Mr Arora prepared a letter that he says he posted on 31 December 2010:

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<sup>1</sup> The only person who gave evidence about a conversation taking place then was Ms Zabeen. She said she could not hear what was being said and she did not understand the language being spoken (probably Hindi).

Dear Rashmi,

I am writing to advise you that this letter is a formal confirmation of the termination of your employment with Preet Enterprises Limited T/A Kess Hair & Beauty as of 31 December 2010.

Your work attitude while working in the Kess salon, Sylvia Park on Thursday, 30 December was very unprofessional despite being warned about such behaviour verbally and through writing on previous occasions and also on the same day on Thursday, 30 December 2010.

Your deliberate actions to damage the reputation of your employer on Thursday, 30 December 2010 were in direct breach of clause 10.2 of your employment agreement.

Signed: Gurpreet Arora  
(Director, Preet Enterprises Limited)

### **Analysis and conclusions**

[26] The first question that must be determined is: Did Mrs Bhola leave (or abandon) her employment or was she dismissed?

[27] Balancing the evidence, I find that it is more probable than not that Mrs Bhola was dismissed by Mr Arora on 30 December 2010. While I have some doubts about the reliability of some of Mrs Bhola's evidence, I accept that it is probable that as a result of Mrs Bhola refusing to service further customers after 6:00pm on 30 December 2010, she was issued with an ultimatum by Mr Arora; along the lines of if Mrs Bhola did not service the customers as requested, she should not come to work the next day: in other words, she was dismissed. Mrs Bhola may well have responded that she didn't want to work at the salon any more, but I believe that this (most probably) has to be seen in the context that she believed she had been dismissed. In reaching the conclusion that Mrs Bhola was dismissed, I take into account the content of the letter of 31 December 2010. This was requested on that date by Mrs Bhola, as she required confirmation of the termination of her employment and Mr Arora obliged. It seems to me that if Mrs Bhola had left the employment on a voluntary basis, as contended by the employer, this would have been expressed in the letter rather than Mr Arora using the language: "... confirmation of the termination of your employment". The letter also refers to clause 10.2 of the employment agreement

which has been referred to earlier in this determination<sup>2</sup> whereby: "...the employer may terminate this agreement summarily and without notice for serious misconduct..."

[28] Further confirmation of the dismissal of Mrs Bhola is contained in the *Statement in Reply* received by the Authority on 30 March 2011, just three months after the termination of Mrs Bhola's employment. The significant content of the statement in reply is:

The applicant was justifiably **dismissed** and no pay remains outstanding.

The company has a published disciplinary policy and the applicant received numerous warnings about her misconduct, nevertheless she persisted in this behaviour and was **dismissed** as a result.

The actual misconduct complained of related to her harassing her fellow employees, refusing to obey reasonable instructions and her persistence in issuing negative statements about her employer in the presence of clients. (Emphasis added.)

### **Was the dismissal unjustifiable?**

[29] The question of whether a dismissal is justifiable must be determined by the Authority on an objective basis. The test is whether the employer's actions and how the employer acted were what a fair and reasonable employer would have done in all the circumstances the dismissal occurred.<sup>3</sup> The test of justification was amended by the introduction of the Employment Relations Amendment Act 2010. The statutory amendment cannot be strictly applied to the circumstances pertaining to Mrs Bhola as her dismissal occurred before 1 April 2011. However, the new s 103A(3) provides what can be seen as a codification of various common law principles that apply to dismissals and it is useful to set them out below:

In applying the test in subsection (2) the Authority or the Court must consider:

- (a) whether having regard to the resources available to the employer, the employer sufficiently investigated the allegations against the employee before dismissing or taking action against the employee; and

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<sup>2</sup> Para [14].

<sup>3</sup> Section 103A of the Employment Relations Act 2000, as it was then.

- (b) whether the employer raised the concerns that the employer had with the employee before dismissing or taking action against the employee; and
- (c) whether the employer gave the employee a reasonable opportunity to respond to the employer's concerns before dismissing or taking action against the employee; and
- (d) whether the employer genuinely considered the employee's explanation (if any) in relation to the allegations against the employee before dismissing or taking action against the employee.

[30] Working through the above criteria, it is clear that PEL as a business had few, if any, resources in regard to managing such matters. However, Mr Arora had options available to him in the circumstances. This is that he should have indicated to Mrs Bhola that given her behaviour, he was going to suspend her from her employment on pay, while he sought advice and contemplated what action would be appropriate in the circumstances. Or alternatively, Mr Arora could have left matters overnight and then met with Mrs Bhola before she commenced work the next day and raised his concerns, warned her of the action that was contemplated and then allowed her to seek professional advice. A formal meeting could have then taken place whereby Mrs Bhola, having obtained representation (or at the least having sought advice), would have had the opportunity to respond to Mr Arora's concerns. Mr Arora could have then given her response appropriate consideration before making a decision about the future of Mrs Bhola's employment.

[31] Unfortunately, none of these steps occurred and Mrs Bhola was simply told not to come to work the next day (31 December 2010). The termination of her employment was confirmed via the letter of 31 December 2010. Therefore, I can reach no other conclusion other than that the dismissal of Mrs Bhola was unjustifiable as the actions of Mr Arora were not what a fair and reasonable employer would have done in the circumstances.

### **Remedies**

[32] Having found that the dismissal of Mrs Bhola was unjustifiable and hence she has a personal grievance, pursuant to s 123(1) of the Employment Relations Act 2000 (the Act):

Where the Authority or the Court determines that an employee has a personal grievance, it may, in settling the grievance, provide for one or more of the following remedies ...

[33] Included in the remedies available is reimbursement of wages and compensation for humiliation, loss of dignity and injury to feelings. Then, at s 128(2) of the Act, if the Authority determines that an employee has a personal grievance and there has been lost remuneration because of the grievance, the Authority:

...must, whether or not it provides for any of the other remedies provided for in s 123, order the employer to pay to the employee the lesser of a sum equal to that lost remuneration or to three months ordinary time remuneration.

(a) *Reimbursement of lost wages*

[34] Mrs Bhola obtained new employment promptly and her claim for reimbursement of lost wages relates to her loss of income for only four weeks, being the sum of \$2,480 calculated as follows: \$15.50 per hour x 8 hours x 5 days = \$620.00 per week x 4 weeks: \$2,480. Subject to a consideration of any reduction pursuant to s 124 of the Act, Mrs Bhola is entitled to this sum.

(b) *Compensation*

[35] Section 123(1)(c)(i) of the Act provides for the payment to the employee of compensation by the employer, including compensation for humiliation, loss of dignity and injury to the feelings of the employee. Mrs Bhola gave evidence of the effect of the dismissal on her, particularly at the time of the year whereby the loss of her employment ruined the Christmas festivities for her and her family. Also the sudden nature of the dismissal heightened the effect upon her. However, I tend to think that given the chequered history of this relationship and the fact that Mrs Bhola had received a final warning; and the nature of the continuing conflict between her and Mr Arora, Mrs Bhola would not have been entirely surprised at the outcome that was duly visited upon her. Also, there is some evidence that she was not particularly committed to working at the salon. Nonetheless, I accept that she was affected in a manner that entitles her to compensation as envisaged by s 123(1)(c)(i) of the Act and an award of \$4,000 is appropriate, subject to the consideration of any contribution on her part.

(c) *Contribution*

[36] Pursuant to s 124 of the Act, when considering the nature and extent of the remedies to be provided in respect of a personal grievance, the Authority is required to consider the extent to which the actions of the employee contributed towards the situation that gave rise to the personal grievance, and if those actions so require it, reduce the remedies that would otherwise be awarded accordingly.

[37] I conclude that Mrs Bhola contributed to the situation that gave rise to her personal grievance as follows. The overall evidence shows that Mrs Bhola firmly set herself against Mr Arora following the warning that she received on 24 November 2010. This may have been in response to the decision of Mr Arora not to support Mrs Bhola's application for permanent residency, though it seems that Mrs Bhola had engaged in some negative or disruptive behaviour before then, as evidenced by the fact of the warning being issued. I accept, in substance, the evidence of Mr Arora regarding the behaviour of Mrs Bhola on 30 December 2010 and the overall result of that behaviour on the business. I conclude that the behaviour of Mrs Bhola on 30 December 2010 warrants a reduction of 50 % in the remedies that have been awarded to her.

**The wages and holiday pay claim**

[38] Mrs Bhola claims that she is entitled to unpaid wages, including payment for working on public holidays, in the sum of \$2,115.49 and also payment for accrued unpaid leave in the sum of \$2,666.96: a total of \$4,782.45. At the investigation meeting on 19 March 2012, PEL conceded that Mrs Bhola was entitled to the sum of \$4,679.18. The Authority encouraged the parties to resolve this matter with the assistance of a mediator and this happened. Remarkably, given that there was only \$103.27 between the parties, agreement was not reached. I also note the evidence of Mr Arora in that he says PEL loaned the sum of \$3,000 to Mrs Bhola and also, via a letter dated 16 January 2011, Mrs Bhola was required to repay the sum of \$483.75, albeit there are no details of what this sum relates to. Mrs Bhola denies that she owes PEL any money at all. It would be expected that if Mrs Bhola also owed PEL \$3,000 it would have been raised in this letter too. While it has not been said, it could be that the withholding Mrs Bhola's pay entitlements relates to the two aforementioned sums. But in any event, given that PEL now concedes that monies are owing to Mrs Bhola, I conclude that she is entitled to be paid the gross sum of \$4,782.45.

**Determination**

[39] For the reasons set out above, I find that Mrs Bhola was unjustifiably dismissed on 30 December 2010. Preet Enterprises Limited is ordered to pay to Mrs Bhola the following sums:

1. Pursuant to s 123(1)(b) and s 128(2) of the Act, reimbursement of lost wages in the gross sum of \$2,480 less 50 %: \$1,240.
2. Pursuant to s 123(1)(c)(i) of the Act, the sum of \$4,000 less 50 %: \$2,000.
3. Wage arrears and holiday pay in the gross sum of \$4,782.45.

**Costs**

[40] Costs are reserved and parties are invited to resolve that matter if they can, taking into account the outcome, the usual daily tariff approach adopted by the Authority and that the investigation was completed within one full day (in total). In the event a resolution cannot be reached, the applicant has 28 days from the date of this determination to file and serve submissions with the Authority. The respondent has a further 14 days to file and serve submissions.

**K J Anderson**  
**Member of the Employment Relations Authority**