

IN THE COURT OF APPEAL OF NEW ZEALAND

I TE KŌTI PĪRA O AOTEAROA

**CA324/2021
[2021] NZCA 598**

BETWEEN MELISSA JANE BOWEN
 Applicant

AND BANK OF NEW ZEALAND
 Respondent

Court: Kós P and Cooper J

Counsel: M W O'Brien for Applicant
 R M Rendle and M G Bolwell for Respondent

Judgment: 12 November 2021 at 9 am
(On the papers)

JUDGMENT OF THE COURT

- A The application for leave to appeal is declined.**
 - B The application for stay is declined.**
 - C The applicant must pay the respondent costs for a standard application on a band A basis with usual disbursements.**
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REASONS OF THE COURT

(Given by Kós P)

[1] Ms Bowen sought, but failed, to persuade the Employment Court to grant special leave for removal of her proceeding for personal grievance from the Employment Relations Authority to the Court.¹ She seeks leave to appeal to this

¹ *Bowen v Bank of New Zealand* [2021] NZEmpC 71. Ms Bowen argued an important question of law was likely to arise in her matter other than incidentally: Employment Relations Act 2000, s 178(2)(a).

Court.² She seeks also an order for stay of the proceeding in the Authority pending determination of that appeal.

[2] Such an appeal requires identification of a question of law that, by reason of its general or public importance or for any other reason, ought to be submitted to this Court for decision.³

[3] We will assume for present purposes, but without deciding the point, that the statutory provision is broad enough to encompass an appeal against non-removal.⁴ However, such an appeal raises no intrinsic question of law, let alone one that calls for decision by this Court because of general, public or other importance. That the underlying proceeding may possibly involve an important question of law does not mean that the decision where to hear that question is itself important and one needing this Court's opinion.

[4] It follows also that the application in this Court for stay should be declined.

Result

[5] The application for leave to appeal is declined.

[6] The application for stay is declined.

[7] The applicant must pay the respondent costs for a standard application on a band A basis with usual disbursements.

Solicitors:
Just Lawyers (NZ) Ltd, Auckland for Applicant
Simpson Grierson, Auckland for Respondent

² Employment Relations Act, s 214(1).

³ Section 214(3).

⁴ Cf *Lane v Esdaile* [1891] AC 210 (HL); *Collier v Elders Pastoral Ltd (No 2)* (1991) 3 PRNZ 478 (CA); *Simes v Tennant* (2005) 17 PRNZ 684 (CA); and *Seamar Holdings Ltd v Kupe Group Ltd* [1995] 2 NZLR 274 (CA).