

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

SC 142/2021
[2022] NZSC 9

BETWEEN LYNNE FRANCES SNOWDON
 Applicant

AND RADIO NEW ZEALAND LIMITED
 Respondent

Court: Winkelmann CJ, Glazebrook and Williams JJ

Counsel: J A Hickling for Applicant
 M F Quigg for Respondent

Judgment: 22 February 2022

JUDGMENT OF THE COURT

- A The application for an extension of time to apply for leave to appeal is dismissed.**
 - B The application to adduce new evidence is dismissed.**
 - C The application for a stay of the execution of the costs decision of the Employment Court is dismissed.**
 - D The applicant must pay the respondent costs of \$2,500.**
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REASONS

Background

[1] Between 2004 and 2009, Ms Snowdon brought a number of claims against Radio New Zealand Ltd (RNZ) for unjustified disadvantage, unjustified dismissal and fraud in relation to the discovery process. All claims were consolidated and heard in

the Employment Court in 2013 and 2014. All were dismissed (the substantive decision).¹ The Court awarded RNZ costs of \$490,000 (the costs decision).²

The present applications

[2] Ms Snowdon applies:

- (a) for leave to appeal out of time against both the substantive and the costs decisions and directly to this Court;³
- (b) for leave to adduce new evidence: being documents obtained in August 2020 from Irirangi Te Motu | NZ On Air (a Crown entity that funds public media) under the Official Information Act 1982; and
- (c) for a stay of execution of the costs decision.

[3] Ms Snowdon says that the leave application is made out of time because it has taken six years to perform a forensic audit of RNZ's documents and the Official Information Act request could not be made until certain senior staff left NZ On Air in 2020 because, according to Ms Snowdon, they would have opposed her request.

Our assessment

[4] No adequate reasons have been provided to justify the delay in filing this application. In particular, there is no proper reason provided as to why the Official Information Act request could not have been made earlier. The time taken to conduct the forensic audit cannot excuse the delay as the new evidence now sought to be adduced does not result from that audit.

¹ *Snowdon v Radio New Zealand Ltd* [2014] NZEmpC 45, [2014] ERNZ 180 (Judge Ford) [the substantive decision]. An application for further discovery had been dismissed in 2010: *Snowdon v Radio New Zealand Ltd* [2010] NZEmpC 10, [2010] ERNZ 33 (Judge Travis). An application for leave to appeal against that decision was dismissed: *Snowdon v Radio New Zealand Ltd* [2010] NZCA 271 (William Young P, Ellen France and Randerson JJ).

² *Snowdon v Radio New Zealand Ltd* [2014] NZEmpC 180 (Judge Ford) [the costs decision].

³ There has been no application filed for leave to appeal against either the substantive or the costs decision to the Court of Appeal.

[5] There are in any event no exceptional circumstances justifying an application for leave to appeal directly to this Court.⁴ Further, the matters Ms Snowdon seeks to raise are issues of fact and related to the particular circumstances of this case. Appeals to this Court from the Employment Court are on questions of law only.⁵

[6] The application for an extension of time must therefore be dismissed. In light of this conclusion, the applications to adduce new evidence and for a stay must also be dismissed.

Result

[7] The application for an extension of time to apply for leave to appeal is dismissed.

[8] The application to adduce new evidence is dismissed.

[9] The application for a stay to the proceedings is dismissed.

[10] The applicant must pay the respondent costs of \$2,500.

Solicitors:
Quigg Partners, Wellington for the Respondent

⁴ Employment Relations Act 2000, s 214A(4).

⁵ Section 214A(1). Applicants must also satisfy s 75 of the Senior Courts Act 2016, which would not be met in this case either: Employment Relations Act, s 214A(4).