

IN THE COURT OF APPEAL OF NEW ZEALAND

**CA536/2010
[2010] NZCA 581**

BETWEEN OCEANA GOLD (NEW ZEALAND)
 LIMITED
 Applicant

AND TRACEY JINKINSON
 Respondent

Hearing: 30 November 2010

Court: Chambers, Randerson and Stevens JJ

Counsel: L K Brook for Applicant
 R M Kelly and K J Jarvis for Respondent

Judgment: 2 December 2010 at 4 pm

JUDGMENT OF THE COURT

A The application for leave to appeal is granted on the following questions of law:

- (1) Did the Employment Court err in failing to take into account all relevant considerations when assessing reimbursement for lost remuneration under ss 123 and 128 of the Employment Relations Act 2000?**

- (2) Did the Employment Court err in taking into account as a factor in assessing the quantum of reimbursement the matters referred to in [79] of that Court's reasons for judgment?**

B Costs on the application for leave are reserved.

REASONS OF THE COURT

(Given by Chambers J)

[1] We have decided leave should be granted on the two questions identified by Ms Brook for Oceana Gold (New Zealand) Limited, the applicant. We do not give reasons, in accordance with r 27(2) of the Court of Appeal (Civil) Rules 2005.

[2] Ms Kelly, for Tracey Jkinson, the respondent, raised the question whether security for costs in respect of the application for leave had been paid, as seemingly required by reg 69 of the Employment Court Regulations 2000. Notwithstanding that regulation, security for costs does not have to be paid on an application for leave to appeal under s 214 of the Employment Relations Act: see this Court's discussion in *Kidd v Equity Realty (1995) Ltd*.¹

[3] Once Oceana Gold files its appeal, it will have to provide security for costs in accordance with r 35 of the Court of Appeal (Civil) Rules.

Solicitors:
Anderson Lloyd, Dunedin, for Applicant
Wilkinson Adams, Dunedin, for Respondent

¹ *Kidd v Equity Realty (1995) Ltd* [2008] NZCA 545, (2008) 6 NZELR 291 at [4]-[12].