

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI O AOTEAROA

SC 142/2021
[2022] NZSC 158

BETWEEN LYNNE FRANCES SNOWDON
 Applicant

AND RADIO NEW ZEALAND LIMITED
 Respondent

Court: Winkelmann CJ, Glazebrook and Williams JJ

Counsel: A J M Weir for Applicant

Judgment: 23 December 2022

JUDGMENT OF THE COURT

- A The application for recall of this Court’s judgment of 22 February 2022 (*Snowdon v Radio New Zealand Ltd* [2022] NZSC 9) is dismissed.**
- B There is no order as to costs.**
-

REASONS

[1] Ms Snowdon applies for the recall of this Court’s judgment of 22 February 2022¹ dismissing her application for an extension of time to apply for leave to appeal against two Employment Court decisions.²

¹ *Snowdon v Radio New Zealand Ltd* [2022] NZSC 9 (Winkelmann CJ, Glazebrook and Williams JJ) [SC leave judgment].

² *Snowdon v Radio New Zealand Ltd* [2014] NZEmpC 45, [2014] ERNZ 180 (Judge Ford); and the costs decision in *Snowdon v Radio New Zealand Ltd* [2014] NZEmpC 180 (Judge Ford). There had been no application filed for leave to appeal against either decision to the Court of Appeal.

[2] The application for an extension of time was dismissed on the basis that no adequate reasons had been provided to justify the eight year delay in filing the application.³

[3] In any event, this Court held that there were no exceptional circumstances justifying an application for leave directly to this Court and the proposed appeal raised issues of fact when appeals from the Employment Court are on questions of law only.⁴ Applications for a stay and for leave to adduce new evidence were also dismissed.⁵

Recall application

[4] Ms Snowdon submits she has recently retrieved new evidence from the archives in the Parliamentary Library which, in her submission, indicate a substantial miscarriage of justice occurred.⁶ This material had not been disclosed before the Employment Court hearing as she alleges it should have been. She also seeks to challenge the conclusions reached in this Court's judgment about her proposed appeal. In particular, she submits her grounds of appeal did relate to a question of law.

[5] After the filing of her application for recall, Ms Snowdon also filed an application to prevent the solicitors for the respondent acting. Ms Snowdon alleges the new evidence shows that counsel acted inappropriately in the Employment Court hearings.

Our assessment

[6] The general rule is that a judgment, once delivered, must stand for better or worse.⁷ A decision to recall a judgment will only be made in exceptional circumstances.⁸

³ SC leave judgment, above n 1, at [4].

⁴ At [5]. See Employment Relations Act 2000, s 214A.

⁵ At [6].

⁶ These documents do not appear to have been attached to the recall application.

⁷ *Horowhenua County v Nash (No 2)* [1968] NZLR 632 (SC) at 633, as cited in *Craig v Williams* [2019] NZSC 60 at [10]. Exceptions to this are discussed in *Saxmere Co Ltd v Wool Board Disestablishment Co Ltd (No 2)* [2009] NZSC 122, [2010] 1 NZLR 76 at [2].

⁸ *Uhrle v R* [2020] NZSC 62, [2020] 1 NZLR 286 at [29].

[7] Ms Snowdon's application for an extension of time to appeal was dismissed because there was no adequate explanation for the delay. There is still no adequate explanation for the delay, no matter how many additional documents may be found. There is thus no basis for recall.

[8] In any event, there is no explanation provided as to why the additional documents Ms Snowdon now seeks to rely on were not available at the time of her previous (out of time) application for leave to appeal to this Court (or indeed earlier). To the extent Ms Snowdon seeks to relitigate the same arguments as in her original leave application, this too is not a basis for recall.⁹

[9] As the application for recall must be dismissed, we do not need to deal with the application relating to counsel for the respondents.

Result

[10] The application for recall is dismissed.

[11] As the respondent was not required to respond to the application for recall, there is no order as to costs.

⁹ *Nuku v District Court at Auckland* [2018] NZSC 39 at [2].