

**IN THE EMPLOYMENT COURT OF NEW ZEALAND  
AUCKLAND**

**I TE KŌTI TAKE MAHI O AOTEAROA  
TĀMAKI MAKĀURAU**

**[2025] NZEmpC 41  
EMPC 474/2023**

IN THE MATTER OF a challenge to a determination of the  
Employment Relations Authority

AND IN THE MATTER OF applications for costs

AND IN THE MATTER OF an application for a stay of proceedings

BETWEEN MELISSA JANE BOWEN  
Plaintiff

AND NATIONAL AUSTRALIA BANK  
LIMITED  
First Defendant

AND ANTHONY HEALY  
Second Defendant

AND ANNIE BROWN  
Third Defendant

AND REBECCA LEE  
Fourth Defendant

Hearing: On the papers

Appearances: M O'Brien and J Plunket, counsel for plaintiff  
RM Rendle and J Grenheld, counsel for first and second  
defendants  
T Oldfield, counsel for third and fourth defendants

Judgment: 13 March 2025

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**INTERLOCUTORY JUDGMENT OF JUDGE K G SMITH  
(Application for a stay of proceedings)**

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[1] On 29 November 2024, the plaintiff's challenge to a determination of the Employment Relations Authority was dismissed.<sup>1</sup> The subject matter of the challenge was a determination by the Authority in which a member declined to recuse herself.<sup>2</sup>

[2] When judgment was given for the defendants, dismissing the challenge, costs were reserved and an opportunity was provided to supply memoranda about them if agreement could not be reached. Agreement was not reached on costs and the defendants have sought them.

[3] The plaintiff has applied for a stay of the judgment as it relates to determining costs. The reason for this application is that she has sought leave to appeal to the Court of Appeal. The Court is asked to delay determining costs until the outcome of the appeal process is known. Attempting to save potentially unnecessary expense lay behind the application.

[4] The defendants have taken a common approach in response to the application. None of them wish to be heard in opposition and they all abide the Court's decision.

[5] I am satisfied that it is appropriate to grant the application. There is a stay as it relates to the costs of the proceeding pending the outcome of the plaintiff's application for leave to appeal to the Court of Appeal and, if leave is granted, until such time as the appeal is resolved.

[6] Costs are reserved.

K G Smith  
Judge

Judgment signed at 10 am on 13 March 2025

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<sup>1</sup> *Bowen v National Australia Bank Ltd* [2024] NZEmpC 234.

<sup>2</sup> *Bowen v National Australia Bank Ltd* [2023] NZERA 735 (Member Larmer).