



Employment Court of New Zealand

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Alkazaz v Enterprise IT Limited [2021] NZEmpC 212 (1 December 2021)

Last Updated: 8 December 2021

IN THE EMPLOYMENT COURT OF NEW ZEALAND AUCKLAND

I TE KŌTI TAKE MAHI O AOTEAROA TĀMAKI MAKĀURAU

[\[2021\] NZEmpC 212](#)

EMPC 100/2021

IN THE MATTER OF	an application for leave to extend time to file a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER OF	an application for recall of a judgment
BETWEEN	AHMED ALKAZAZ Applicant
AND	ENTERPRISE IT LIMITED First Respondent
AND	SERVIAN NEW ZEALAND LIMITED Proposed Second Respondent
AND	SVN HOLDCO PTY LIMITED Proposed Third Respondent
AND	COGNIZANT TECHNOLOGY SOLUTIONS NEW ZEALAND LIMITED Proposed Fourth Respondent

Hearing: On the papers

Appearances: A AlKazaz, applicant in person
R Bryant, counsel for Enterprise IT, Servian New Zealand Ltd and SVN Holdco Pty Ltd
J Warren and C M Evans, counsel for Cognizant Technology Solutions New Zealand Ltd

Judgment: 1 December 2021

INTERLOCUTORY JUDGMENT (NO 5) OF JUDGE J C HOLDEN

(Application for recall of judgment)

AHMED ALKAZAZ v ENTERPRISE IT LIMITED [\[2021\] NZEmpC 212](#) [1 December 2021]

[1] Mr AlKazaz has applied for a recall of my interlocutory judgment (no 3).1

[2] The statement to which Mr AlKazaz's application relates is:2

Nor does the fact a number of Enterprise IT's employees are now with one of the other respondent companies change who Mr AlKazaz's employer was at the relevant time.

[3] Mr AlKazaz says that statement is incorrect as all employees of Enterprise IT Ltd have moved to Servian New Zealand Ltd and Cognizant Technology Solutions New Zealand Ltd. The other parties to the application oppose the application for a recall. They say that the threshold for a recall has not been met in this case, the issue of whether all or some of Enterprise

IT's employees are employed by one or other of the other parties is irrelevant to the joinder and strike out applications, and that it would be a fruitless exercise to require the parties to provide evidence of the movement of all Enterprise IT's employees.

No grounds for a recall

[4] Generally speaking, a judgment once delivered must stand for better or worse subject, of course, to appeal. There are three categories of cases in which a judgment not perfected may be recalled. First, where since the hearing there has been an amendment to a relevant statute or regulation or a new judicial decision of relevance and high authority; second, where representatives have failed to direct the Court's attention to a legislative provision or authoritative decision of plain relevance; and third, where for some very special reason, justice requires that the judgment be recalled.³

[5] The first two categories are not in issue here. For Mr AlKazaz to succeed, he would need to show that some very special reason exists so that justice requires the judgment to be recalled. The discretion to recall must be exercised with

¹ *AlKazaz v Enterprise IT Ltd (No 3)* [2021] NZEmpC 152.

² At [17].

³ *Horowhenua County v Nash (No 2)* [1968] NZLR 632.

circumspection, and it must not in any way be seen as a substitute for appeal. It does not extend to a challenge of any substantive findings of fact and law in the judgment.⁴

[6] The paragraph to which Mr AlKazaz objects was a finding of fact made by the Court based on the evidence before it. It was not a slip. Further, to the extent the contradiction Mr AlKazaz sees between "a number" and "all" exists, that is immaterial to the decision.

[7] There is no very special reason requiring a recall. The application for a recall is declined.

[8] Costs are reserved.

J C Holden Judge

Judgment signed at 1 pm on 1 December 2021

⁴ *Nottingham v Real Estate Agents Authority* [2017] NZCA 145 at [9].