



Employment Court of New Zealand

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Kazemi v Rightway Limited [2019] NZEmpC 72 (11 June 2019)

Last Updated: 18 June 2019

IN THE EMPLOYMENT COURT OF NEW ZEALAND AUCKLAND

I TE KŌTI TAKE MAHI O AOTEAROA TĀMAKI MAKĀURAU

[\[2019\] NZEmpC 72](#)

EMPC 45/2018

IN THE MATTER OF proceedings removed from the
Employment Relations Authority
BETWEEN ELENA KAZEMI
Plaintiff
AND RIGHTWAY LIMITED
First Defendant
AND EDWIN FREDERICK SHAND READ
Second Defendant
AND GREGORY MICHAEL SHEEHAN
Third Defendant
AND DARRYL DEVENDRA JHINKU
Fourth Defendant

Hearing: On the papers

Appearances: T Drake, counsel for plaintiff
B Smith and M McGoldrick, counsel for
defendants

Judgment: 11 June 2019

JUDGMENT OF JUDGE J C HOLDEN

(Recall)

[1] Ms Kazemi has applied for an amendment to the judgment issued on 15 May 2019.¹ She seeks a change at [86] to refer to s 87 of the [Judicature Act 1908](#), rather than sch 2 of the [Interest on Money Claims Act 2016](#), on the basis that she commenced

¹ *Kazemi v Rightway Ltd* [\[2019\] NZEmpC 59](#).

ELENA KAZEMI v RIGHTWAY LIMITED [\[2019\] NZEmpC 72](#) [11 June 2019]

her proceedings by filing a statement of problem in the Employment Relations Authority on 19 May 2017. A similar change would also be required to [11].

[2] Ms Kazemi points to r 11.10 of the [High Court Rules 2016](#), which refers to correction of a clerical mistake or an error arising from an accidental slip or omission. The appropriate rule is r 11.9, which allows the Court to recall a judgment before there is a formal record made.

[3] The issue now raised was not the subject of submissions at the hearing. The defendants do not oppose the application.

[4] In those circumstances, I direct that the judgment is recalled and is to re-issue with a fresh date of issue and new judgment number, amending [11] and [86] to read:

[11] On the key issue I find that the buy-in fee was a premium, contrary to [s 12A](#) of the [Wages Protection Act 1983](#). RightWay is to pay Ms Kazemi the

\$125,000 she paid as a buy-in fee, together with interest on that sum to be calculated using the prescribed rate of interest under s 87 of the [Judicature Act 1908](#) in force as at 31 December 2017.

and

[86] It follows that she is also entitled to interest on the amount of \$125,000 from 30 October 2015 until the date of payment. That interest is to be calculated using the prescribed rate of interest under s 87 of the [Judicature Act 1908](#) in force as at 31 December 2017.

[5] In all other respects the judgment is unchanged.

[6] There is no order for costs on this application.

J C Holden Judge

Judgment signed at 11.30 am on 11 June 2019

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