



# Employment Court of New Zealand

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## Alkazaz v Enterprise IT Limited [2021] NZEmpC 62 (12 May 2021)

Last Updated: 18 May 2021

IN THE EMPLOYMENT COURT OF NEW ZEALAND AUCKLAND

I TE KŌTI TAKE MAHI O AOTEAROA  
TĀMAKI MAKĀURAU

[\[2021\] NZEmpC 62](#)  
EMPC 397/2019

IN THE MATTER OF	a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER OF	an application for stay of proceedings
BETWEEN	AHMED ALKAZAZ Plaintiff
AND	ENTERPRISE IT LIMITED Defendant

Hearing: On the papers  
Appearances: Plaintiff in person  
R Bryant, counsel for  
defendant  
Judgment: 12 May 2021

INTERLOCUTORY JUDGMENT (NO 9) OF CHIEF JUDGE CHRISTINA INGLIS

**(Application for stay of proceedings – costs challenge)**

[1] Mr AlKazaz has filed an application for a stay. The application follows a judgment of the Court dismissing his challenge to a determination of the Employment Relations Authority declining to reopen its investigation into his personal grievance (the reopening challenge).<sup>1</sup> A separate challenge to the Authority's costs determination (the costs challenge) has yet to be dealt with. Mr AlKazaz filed an application for leave to appeal against the Court's judgment on the reopening challenge and, in parallel, sought a stay of the costs challenge pending the outcome of the appeal process. The defendant company opposes the application.

<sup>1</sup> *AlKazaz v Enterprise IT Ltd* [\[2020\] NZEmpC 171](#).

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[2] The Court has a broad discretion to stay proceedings. It must be exercised judicially and in accordance with principle. A range of factors are generally considered relevant when an appeal process is being pursued, including whether, if no stay is granted, the appeal will be rendered ineffectual; whether the defendant will be injuriously affected by a stay; whether the appeal is being pursued in good faith; and the novelty and importance of the questions involved in the case.

[3] The plaintiff is entitled to pursue his appeal rights. The company's interests must, however, be weighed. The Court of Appeal has declined Mr AlKazaz's application for leave to appeal<sup>2</sup> – he has now sought leave to appeal against that judgment to the Supreme Court. The company has an interest in bringing the residual matters in this Court to a close. I do not accept that, absent a stay, Mr AlKazaz's appeal rights will be rendered ineffectual. Nor do I accept that he would otherwise be prejudiced. No question of novelty or importance is raised by the proceedings which would otherwise support a stay.

[4] The overall interests of justice weigh firmly in favour of the application for a stay being declined.

[5] The application for a stay is dismissed.

[6] A telephone conference should be convened at the earliest available opportunity to timetable the costs challenge through to a hearing. It will be convenient to timetable the other outstanding matters at that time.

[7] The defendant company is entitled to costs on this application, calculated on a 2B basis.<sup>3</sup> However, if the parties cannot agree, I will receive memoranda.

Christina Inglis Chief Judge

Judgment signed at 11.30 am on 12 May 2021

<sup>2</sup> *AlKazaz v Enterprise IT Ltd* [2021] NZCA 13.

<sup>3</sup> *AlKazaz v Enterprise IT Ltd* EMPC 397/2019, 14 May 2020 (Minute) at [15].

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