

IN THE COURT OF APPEAL OF NEW ZEALAND

I TE KŌTI PĪRA O AOTEAROA

**CA488/2019
[2019] NZCA 655**

BETWEEN	A LABOUR INSPECTOR (MINISTRY OF BUSINESS, INNOVATION AND EMPLOYMENT) Applicant
AND	GILL PIZZA LIMITED First Respondent
	SANDEEP SINGH Second Respondent
	JATINDER SINGH Third Respondent
	MANDEEP SINGH Fourth Respondent
	MALOTIA LIMITED Fifth Respondent

Court: Brown and Clifford JJ

Counsel: A E Scott-Howman and C R English for Applicant
G G Ballara and S P Radcliffe for Respondents

Judgment: 18 December 2019 at 10 am
(On the papers)

JUDGMENT OF THE COURT

The application for leave to appeal is granted on the following question of law:

Whether the Employment Court erred in finding that, if a defendant asserts there is no employment relationship, the Labour Inspector must first seek a declaration of employment status from the Employment Court under s 6(5) of

the Employment Relations Act 2000 before commencing or continuing a proceeding under s 228(1) of that Act.

REASONS OF THE COURT

(Given by Clifford J)

[1] The applicant is granted leave to bring an appeal on the following question of law:

Whether the Employment Court erred in finding that, if a defendant asserts there is no employment relationship, the Labour Inspector must first seek a declaration of employment status from the Employment Court under s 6(5) of the Employment Relations Act 2000 before commencing or continuing a proceeding under s 228(1) of that Act.

[2] Costs on the application are reserved pending determination of the substantive appeal.

Solicitors:
Crown Law Office, Wellington for Applicant
McBride Davenport James, Wellington for Respondents