

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

**I TE KŌTI TAKE MAHI O AOTEAROA
TE WHANGANUI-A-TARA**

**[2020] NZEmpC 72
EMPC 289/2019**

IN THE MATTER OF	a challenge to a determination of the Employment Relations Authority
AND IN THE MATTER	of an application for a stay of proceedings
BETWEEN	DIANE SMITHSON Plaintiff
AND	WELLINGTON COLLEGE BOARD OF TRUSTEES Defendant

Hearing: (on the papers)

Appearances: B Buckett and M Belesky, counsel for plaintiff
C Heaton, counsel for defendant

Judgment: 27 May 2020

**INTERLOCUTORY JUDGMENT OF JUDGE B A CORKILL
(Application for order of stay)**

[1] The plaintiff has brought a challenge to a substantive determination¹ in which her claims were dismissed, and to a subsequent costs determination made in the defendant's favour.²

[2] The parties have now agreed that an order should be made granting the plaintiff a stay of proceedings with regard to the costs determination subject to the following conditions:

¹ *Smithson v Wellington College Board of Trustees* [2019] NZERA 489 (Member Crichton).

² *Smithson v Wellington College Board of Trustees* [2020] NZERA 183 (Member Loftus).

- a) Within seven days of this judgment being issued, the plaintiff will pay the sum awarded by the Authority for costs, \$11,500, to the Registrar of the Court to be held in an interest-bearing account until the parties agree otherwise, or until further order of the Court.
- b) If the plaintiff does not make the above payment into Court, without reasonable excuse, the Authority's costs award will become immediately payable.

[3] I make that order, by consent.

[4] I reserve leave to either party to apply for an order varying, amending or revoking the foregoing order on reasonable notice.

B A Corkill
Judge

Judgment signed at 2.00 pm on 27 May 2020