

**IN THE COURT OF APPEAL OF NEW ZEALAND**

**I TE KŌTI PĪRA O AOTEAROA**

**CA218/2021  
[2021] NZCA 399**

BETWEEN                      PETER D'ARCY LORIGAN  
   Applicant  
  
AND                                INFINITY AUTOMOTIVE LIMITED  
   Respondent

Court:                            Gilbert and Goddard JJ  
  
Counsel:                        Applicant in person  
   R L Towner for Respondent  
  
Judgment:                      24 August 2021 at 9.30 am  
(On the papers)

---

**JUDGMENT OF THE COURT**

---

- A The application for leave to appeal is declined.**  
**B The applicant must pay costs to the respondent for a standard application on a band A basis and usual disbursements.**
- 

**REASONS OF THE COURT**

(Given by Gilbert J)

[1] Mr Lorigan was employed by Infinity Automotive Ltd (Infinity) in a sales role for a short time until he was made redundant with effect from 31 January 2010. Mr Lorigan raised a personal grievance for unjustified dismissal by letter dated 28 January 2010.<sup>1</sup> In July 2011, he sought to raise a disadvantage grievance.<sup>2</sup>

---

<sup>1</sup> Employment Relations Act 2000, s 103(1)(a).

<sup>2</sup> Section 103(1)(b).

A decade later, the substantive claims have still not been heard because Mr Lorigan has persistently failed to comply with various interlocutory costs orders and consequent compliance orders.

[2] Numerous judgments (around 17) have been generated by the dispute. A short summary of some of these will suffice to set the context for Mr Lorigan's present application for leave to appeal against the most recent interlocutory judgment of the Employment Court on 19 March 2021 granting Infinity's application for further sanctions, including dismissal of two of the proceedings, a stay of the other two proceedings pending compliance with costs orders, and further costs in the sum of \$60,888.50.<sup>3</sup>

[3] On 13 November 2015, the Employment Relations Authority (the ERA) determined that Mr Lorigan's disadvantage grievance had not been raised within time.<sup>4</sup> On 5 October 2016, the ERA declined Mr Lorigan's application for leave to raise this personal grievance out of time.<sup>5</sup> The entire matter was transferred to the Employment Court on Mr Lorigan's application on 16 August 2017.<sup>6</sup>

[4] On 11 September 2018, the Employment Court ordered Mr Lorigan to pay costs in the sum of \$14,495 in respect of two earlier interlocutory judgments.<sup>7</sup> Mr Lorigan did not pay the costs and a compliance order was therefore made on 12 November 2018, requiring Mr Lorigan to pay the outstanding costs by 23 November 2018.<sup>8</sup> Mr Lorigan's subsequent application for a stay of the compliance order was dismissed on 3 December 2018 along with three other interlocutory applications.<sup>9</sup> This Court declined Infinity's application for leave to appeal against that judgment on 15 May 2019.<sup>10</sup>

[5] On 5 September 2019, the Employment Court made a sanction order under s 140 (6) of the Employment Relations Act 2000 staying Mr Lorigan's proceedings

---

<sup>3</sup> *Lorigan v Infinity Automotive Ltd* [2021] NZEmpC 32 [Judgment under appeal].

<sup>4</sup> *Lorigan v Infinity Automotive Ltd (No 2)* [2015] NZERA Auckland 357.

<sup>5</sup> *Lorigan v Infinity Automotive Ltd (No 4)* [2016] NZERA Auckland 340.

<sup>6</sup> *Lorigan v Infinity Automotive Ltd (No 5)* [2017] NZERA Auckland 239.

<sup>7</sup> *Lorigan v Infinity Automotive Ltd* [2018] NZEmpC 104.

<sup>8</sup> *Infinity Automotive Ltd v Lorigan* [2018] NZEmpC 133.

<sup>9</sup> *Lorigan v Infinity Automotive Ltd* [2018] NZEmpC 143.

<sup>10</sup> *Infinity Automotive Ltd v Lorigan* [2019] NZCA 161, [2019] ERNZ 132.

until the outstanding costs orders totalling \$14,495 were paid. A compliance order was made in respect of another outstanding costs order in the sum of \$500.<sup>11</sup> Mr Lorigan was also ordered to pay \$500 on the stay application. This Court declined Mr Lorigan's application for leave to appeal against this decision on 31 July 2020.<sup>12</sup>

[6] In December 2020, Mr Lorigan made an unsuccessful application for an order recusing Judge Corkill in the proceedings.<sup>13</sup> On 19 March 2021, the Employment Court:<sup>14</sup>

- (a) dismissed two of Mr Lorigan's proceedings (EMPC 377/2015 and EMPC 277/2016) on Infinity's application for a further sanction for non-compliance with the outstanding costs orders;
- (b) ordered Mr Lorigan to pay Infinity the total sum of \$60,888.50 for costs in the ERA and in the Employment Court in respect of the dismissed proceedings;
- (c) stayed Mr Lorigan's third proceeding (EMPC 215/2017) until 21 June 2021 to give him an opportunity to pay the earlier costs orders together totalling \$15,495 (comprising of the \$14,495 costs award plus two further awards of \$500 referred to at [5] above) together with the \$60,888.50 costs referred to in [6(b)] above; and
- (d) stayed Mr Lorigan's fourth proceeding (EMPC 297/2017) until 21 June 2021 to enable compliance to be monitored.

[7] Mr Lorigan now applies for leave to appeal against this judgment.

[8] A decision of the Employment Court can only be appealed on a question of law and then only with leave of this Court. The Court must not grant leave for an appeal unless it is of the opinion that the question of law involved in the proposed appeal is

---

<sup>11</sup> *Lorigan v Infinity Automotive Ltd* [2019] NZEmpC 118.

<sup>12</sup> *Lorigan v Infinity Automotive Ltd* [2020] NZCA 320.

<sup>13</sup> *Lorigan v Infinity Automotive Ltd* [2020] NZEmpC 229.

<sup>14</sup> Judgment under appeal, above n 3.

one that ought to be considered by the Court because of its general or public importance or for some other reason.<sup>15</sup>

[9] Mr Lorigan has filed 242 pages of material in support of his proposed appeal, but this is of little or no assistance to the Court in considering whether the proposed appeal raises a question of law that ought to be determined by this Court. The application itself does not ask the Court to answer any question of law and instead makes wide-ranging scandalous allegations such as corruption, fraud and perjury.

[10] We have not been able to identify any question of law, let alone one that ought to be considered by this Court arising out of the Employment Court's interlocutory judgment. The costs orders followed the event and were calculated in accordance with the scale (category 2, band B). There is no dispute that these costs orders were not complied with by Mr Lorigan. Like any other litigant in our courts, Mr Lorigan cannot disobey court orders and expect there to be no sanction. Once a court order is disobeyed, the imposition of a sanction is almost always inevitable. Were it otherwise, court orders would not continue to be respected. The Employment Court's decision to impose a sanction in the face of Mr Lorigan's persistent failure to comply seems to us to be entirely unremarkable.

[11] We are satisfied there is no justification to grant Mr Lorigan's application for leave to appeal against this decision. In short, no question of law has been identified. In any case, the proposed appeal raises no issue of general or public importance, nor is there any other reason why leave should be granted. The decision sought to be appealed is a conventional application of well-established principles in the particular circumstances of this case.

## **Result**

[12] The application for leave to appeal is declined.

[13] The applicant must pay costs to the respondent for a standard application on a band A basis and usual disbursements.

---

<sup>15</sup> Employment Relations Act 2000, s 214(3).

Solicitors:  
Bell Gully, Auckland for Respondent