

IN THE SUPREME COURT OF NEW ZEALAND

SC 5/2015  
[2015] NZSC 25

BETWEEN MAREE HOWARD  
Applicant

AND ACCIDENT COMPENSATION  
CORPORATION  
Respondent

Court: Elias CJ, Glazebrook and Arnold JJ

Counsel: Applicant in person  
P A McBride for Respondent

Judgment: 11 March 2015

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**JUDGMENT OF THE COURT**

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- A The application for leave to appeal is dismissed.**
- B The applicant must pay costs of \$2,500 to the respondent, plus reasonable disbursements.**
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**REASONS**

[1] The applicant, Mrs Howard, has been involved in long-running, but from her perspective unsuccessful, litigation with the respondent, the Accident Compensation Corporation. The litigation arises out of the suspension of her ACC entitlements following her refusal to undertake an assessment as required by a notice issued under s 72 of the Accident Compensation Act 2001. When she issued judicial review proceedings seeking to set aside the s 72 notice, the ACC applied to strike out the proceedings on the basis that Mrs Howard had challenged the s 72 notice and its effect on her entitlements in previous litigation, which had been finally determined against her. The ACC contended that judicial review proceedings were, therefore, an attempt to mount a collateral attack on earlier unfavourable court decisions and should be struck out as an abuse of process.

[2] In the High Court, Clifford J accepted the ACC's arguments and struck out Mrs Howard's application for judicial review.<sup>1</sup> Mrs Howard appealed. The Registrar of the Court of Appeal fixed security for costs at \$5,880. When the Registrar refused her application to have the payment of security dispensed with or deferred, Mrs Howard applied for a review of the Registrar's decision by a Judge. Randerson J refused her application.<sup>2</sup> Mrs Howard now seeks leave to appeal against that decision.

[3] Mrs Howard submits that important constitutional issues in relation to access to justice are involved. Among other things, she contends that in its decision in *Reekie v Attorney-General*,<sup>3</sup> this Court overlooked the implications of the Magna Carta.

[4] In *Reekie*, the Court determined the principles applicable to security for costs. In doing so, it recognised (through the notion of the reasonable and solvent litigant) that impecuniosity should not stand in the way of an arguable appeal. In the present case, Randerson J applied the approach set out in *Reekie*, concluding that Mrs Howard's appeal had little merit. Mrs Howard has not raised anything which satisfies us that Randerson J's conclusion is arguably wrong.

[5] It follows that we are not satisfied that it is necessary in the interests of justice that we hear and determine Mrs Howard's proposed appeal. No point of principle is involved and we see no risk of a substantial miscarriage of justice.

[6] The application for leave to appeal is dismissed. Mrs Howard must pay costs of \$2,500 to the respondent, plus reasonable disbursements.

Solicitors:  
McBride Davenport James, Wellington for Respondent

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<sup>1</sup> *Howard v Accident Compensation Corporation* [2014] NZHC 2431. The earlier review and appeal decisions in which Mrs Howard has been involved are summarised at [13].

<sup>2</sup> *Howard v Accident Compensation Corporation* [2014] NZCA 627.

<sup>3</sup> *Reekie v Attorney-General* [2014] NZSC 63, [2014] NZLR 737.