

**IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY**

CIV 2008-485-1465

UNDER the Broadcasting Act 1989 s 18

IN THE MATTER OF an Appeal against a decision of the
Broadcasting Standards Authority dated 4
June 2008

BETWEEN BENJAMIN MORLAND EASTON
Appellant

AND RADIO NEW ZEALAND LIMITED
First Respondent

AND BROADCASTING STANDARDS
AUTHORITY
Second Respondent

Hearing: 12 October 2009

Counsel: B Easton (In person) Appellant
S M Moran for Radio New Zealand (First Respondent)
M J McGoldrick for the Broadcasting Standards Authority (Second
Respondent)

Minute: 12 October 2009

MINUTE OF MILLER J

[1] The appeal is to be heard on 8 March (one day).

[2] Mr Easton's submissions are to be filed and served by 9 November, and Ms Moran's by 14 December.

[3] The Authority is to file a common bundle of documents (being the documentation before it in the course of its decision-making) not less than 20 working days before the hearing of the appeal.

[4] The above directions were made by consent. I heard argument on Mr Easton's application for return of the \$800 paid by way of security for costs. He advanced this application on two grounds; impecuniosity and merits. In support of his arguments, he referred me to a judgment of Arnold J in the Court of Appeal on review of a Registrar's decision as to security for costs. In that judgment, Arnold J accepted that Mr Easton is impecunious.

[5] However, impecuniosity does not automatically lead to security for costs being waived. It may do so where the interests of justice so require, as where the obligation to pay security will result in a meritorious appeal not being heard. This is not such a case; security has already been paid and the appeal will proceed.

[6] In the circumstances, there is insufficient reason to depart from the normal principle that a respondent is entitled to security for costs. That is so even if the appeal is ultimately found to have merit. Although \$800 is a substantial sum for Mr Easton, it is a modest amount of security.

[7] The application for return of security paid is accordingly dismissed.

Miller J