

IN THE COURT OF APPEAL OF NEW ZEALAND

I TE KŌTI PĪRA O AOTEAROA

**CA246/2020
[2020] NZCA 264**

BETWEEN METROPOLITAN GLASS AND
GLAZING LIMITED
Applicant

AND LABOUR INSPECTOR, MINISTRY OF
BUSINESS, INNOVATION AND
EMPLOYMENT
Respondent

Court: Kós P and Clifford J

Counsel: J M Roberts for Appellant
A Scott-Howman and C English for Respondent

Judgment: 29 June 2020 at 10 am
(On the papers)

JUDGMENT OF THE COURT

A The application for leave to appeal is granted.

B The approved question of law is:

Did the Employment Court err in law by concluding that payments made by the applicant from its short term incentive bonus scheme were “payments that the employer is required to pay to the employee under the employee’s employment agreement”, and therefore fell within the definition of “gross earnings” under s 14 of the Holidays Act 2003?

REASONS OF THE COURT

(Given by Kós P)

[1] The application for leave to appeal from the decision of the Employment Court in *Metropolitan Glass & Glazing Ltd v Labour Inspector, Ministry of Business, Innovation and Employment* is granted.¹

[2] The approved question of law is:

Did the Employment Court err in law by concluding that payments made by the applicant from its short term incentive bonus scheme were “payments that the employer is required to pay to the employee under the employee’s employment agreement”, and therefore fell within the definition of “gross earnings” under s 14 of the Holidays Act 2003?

Solicitors:
Hesketh Henry, Auckland for Appellant
Crown Law Office, Wellington for Respondent

¹ *Metropolitan Glass & Glazing Ltd v Labour Inspector, Ministry of Business, Innovation and Employment* [2020] NZEmpC 39.