

[3] In a judgment given on 14 May 2014 Wild J dismissed the application to review the Registrar's decision.² In that judgment the Judge gave the following direction:

[14] Given r 37, and the fact that Mr Orlov's appeal is to be heard on 27 May, I direct that Mr Orlov is to provide the security [of \$5,880] by **5 pm on Monday 19 May 2014** latest.

[4] The judgment of Wild J made it clear that the Registrar had been correct not to entertain the application to dispense with security because it was out of time and there was no power to accept or consider a late application.³ Even if the application were considered on the merits, there was no basis to dispense with security.⁴

[5] Instead of paying the security as directed Mr Orlov filed an application to reduce security for costs or alternatively an application for extension of time to pay security for costs. The application relied on r 5 of the Court of Appeal (Civil) Rules 2005 (the Rules) and s 27 of the New Zealand Bill of Rights Act 1990.

[6] The application is opposed by the respondent on the basis that the Registrar has already declined to make orders relating to security and an application for review of that decision has been dismissed by a Judge. Further, the application discloses no basis on which the orders sought might be made.

[7] In the application, which is dated 16 May 2014, Mr Orlov says that the application would be supported by an affidavit "to be signed in due course". He also says that he has filed an application for legal aid and that application "is currently being processed".

[8] The current position appears to be as follows:

- (a) The security amount of \$5,880 has still not be paid.
- (b) Mr Orlov has not filed an affidavit in support.

² *Orlov v The National Standards Committee No 1* [2014] NZCA 182.

³ At [7]–[8].

⁴ At [9]–[12].

(c) Mr Orlov has not provided any written advice to the Registrar that the application for legal aid has been determined.⁵

[9] I agree with the respondent's contention that Mr Orlov has disclosed no basis upon which the orders sought may be made.

[10] First the powers in r 5 do not assist Mr Orlov. Given the proximity of the hearing and the consequences of failure to comply with the requirement to pay security for costs (r 37 of the Rules), Wild J was correct to set a tight timeframe for compliance. A respondent should not be required to face an appeal hearing unless the appellant has provided protection for any possible costs award. No basis for extending that time to pay security has been advanced.

[11] So far as a reduction of the amount of security is concerned, the position remains the same as when Wild J gave his judgment. No sufficient particulars have been provided by Mr Orlov to warrant a reduction in the amount of security.

[12] With respect to the legal aid application, the case officer has received advice that the legal aid application has been returned to Mr Orlov. This was because it was not completed in the manner prescribed under s 14(1)(a) of the Legal Services Act 2011.

[13] Accordingly there is no basis on which the orders sought should be made. The applications are dismissed. The direction of Wild J given in the judgment of 14 May 2014 stands and Mr Orlov is required to comply with it.

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⁵ Court of Appeal (Civil) Rules 2005, r 36(4).