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MILK
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IN THE HIGH COURT OF NEW ZEALAND
NEW PLYMOUTH REGISTRY

M.95/84

BETWEEN

ERB

Appellant

A N D

MINISTRY OF TRANSPORT

Respondent

Counsel: Appellant in Person
J.A. Laurenson for Respondent

Hearing and
Judgment: 31 October 1984

ORAL JUDGMENT OF GALLEN J.

Miss Erb appearing this morning, indicates that her failure to attend at 10 a.m. on the day the summons was called was because of mechanical difficulty in getting to the Court. That information was not available to the learned District Court Judge and the file indicates that he was not aware that there was a reason for her not being there. I think if he had been aware of the reasons and also been aware that there were matters to be taken into account, that he would have given the opportunity to Miss Erb to appear on the hearing. The notes indicate there were witnesses available and there were mechanical reasons why the speed alleged by the Ministry

of Transport may not have been able to be reached.

The appeal will be allowed and the proceedings are to be re-heard under the provisions of the Summary Proceedings Act at a time suitable to the Court.

R. J. Galloway

Solicitor for Respondent: Crown Solicitor, New Plymouth
