

*Under the Employment Relations Act 2000*

**BEFORE THE EMPLOYMENT RELATIONS AUTHORITY  
WELLINGTON OFFICE**

**BETWEEN** New Zealand Nurses Organisation

**AND** 123 Health Limited and others

**REPRESENTATIVES** Jock Lawrie for Applicant  
Tim Cleary for Respondents

**MEMBER OF AUTHORITY** G J Wood

**INVESTIGATION** 18 May 2006

**MEETING**

**SUBMISSIONS** 21 July 2006

**RECEIVED BY**

**DATE OF** 21 July 2006

**DETERMINATION**

**CONSENT DETERMINATION OF THE AUTHORITY**

1. The parties, as a result of discussions commenced during the investigation meeting, have subsequently resolved the employment relationship problem before the Authority and wish the terms of the agreement to be issued by the Authority in the form of a consent order. I congratulate the parties on having reached the agreement, as set out below, which also become the orders of the Authority disposing of this problem.
2. In settling this employment relationship problem, costs are to lie where they fall and the following terms are to be included within the bargaining process agreement between the parties. (N.B. This wording relates solely to the parties to this employment relationship problem and does not impact on any third parties as may be involved in the PHC MECA bargaining generally):

*“6A Issue of Party Status to MECA to be Subject to Serious Negotiations and NZMA Employer Approval Process.*

1. *The following provision applies to NZNO and those employer parties represented by NZMA.*
2. *Prior to the parties concluding a settlement under clause 7(a) NZMA will provide NZNO with notification of which employer parties are willing to be a party to the PHC MECA based on any proposed terms of settlement. Provided that unless 67%*

*or more of the employers represented by NZMA indicate a willingness to be a party to the PHC MECA based on the proposed terms of settlement no proposed terms of settlement will be concluded between NZNO and NZMA under clause 7(a), and bargaining may continue.*

3. *Provided further that if 67% or more of employers represented by NZMA indicate a willingness to be a party to the PHC MECA based on the proposed terms of settlement there shall be an opportunity for NZNO to enter into serious negotiations with any of those employers or their agent(s) who have not indicated a willingness to be a party to the PHC MECA. Such negotiations shall be on the issue of party status to the PHC MECA and any other relevant issues as may arise in relation to the issue of party status. Any negotiations shall not continue for any longer period of time as is reasonably required to fully canvass and negotiate on the issues relating to party status.*
4. *Subsequent to the process as outlined in 2 and 3 above, any terms of settlement to be concluded between NZNO and NZMA under clause 7(a) shall identify which employer parties are willing to be a party to the PHC MECA as advised by NZMA to NZNO provided that only those employer parties that confirmed their willingness to be a party to an agreement based on the proposed terms of settlement for the PHC MECA to NZMA under clause 6A(2) or those that subsequently confirm their agreement to the proposed terms of settlement for the PHC MECA under clause 6A(3) shall be bound by the PHC MECA.*

...

7 *Authority to Reach an Agreement and Ratification:*

*(c) Notwithstanding 7(a) above, the process by which the employer parties represented by NZMA confirm agreement to the proposed terms of settlement reached at the bargaining table is written approval provided by such employer(s), as advised by NZMA to NZNO under clause 6A(4) above. For the avoidance of doubt such advice will be provided to NZNO by NZMA prior to NZNO undertaking its ratification process as referred at 7(b.)”*

**G J Wood**  
**Member of Employment Relations Authority**