

**IN THE EMPLOYMENT RELATIONS AUTHORITY
CHRISTCHURCH**

CA 75/10
5298665

BETWEEN THE SERVICE & FOOD
WORKERS UNION NGA
RINGA TOTA
Applicant

A N D SEALORD GROUP LIMITED
Respondent

Member of Authority: James Crichton
Representatives: Peter Cranney, Counsel for Applicant
Justine O'Connell, for Respondent
Investigation Meeting: On the papers and by telephone conference on 24 March
2010
Determination: 26 March 2010

DETERMINATION OF THE AUTHORITY

The application for facilitation

[1] By statement of problem filed in the Authority on 11 March 2010, the applicant Union (the Union) made application for facilitation pursuant to s.50B of the Employment Relations Act 2000.

[2] In order that the matter could be given the urgency that it deserved and to meet my existing commitments, time was abridged for the receipt of the statement in reply and the representatives of the respondent employer (Sealord) helpfully provided a statement in reply on 22 March 2010.

The nature of the application

[3] The application proceeds exclusively on the basis that the bargaining between the parties for a collective employment agreement has been *unduly protracted*. In the period from 18 February 2009 down to 17 November 2009, a total of 44 days has been expended in meetings between the parties, or in mediation between the parties in respect of the bargaining process.

[4] One of the bases on which the Authority may grant an application for facilitation is that the bargaining between the parties has been unduly protracted and that *extensive efforts (including mediation)* have not resolved the difficulties between the parties and thus enabled them to complete a concluded bargain. Section 50B(2) provides that a reference for facilitation must identify one or more of the grounds provided in s.50C which, if accepted, would enable the Authority to grant facilitation.

[5] This particular application clearly identifies the second ground set out in s.50C as the basis for the application. Pursuant to s.50C, the Authority has power to provide facilitated bargaining to parties in a number of circumstances, one of which applies in this particular application. Aside entirely from the evidence of the extent of the parties' efforts to conclude a collective employment agreement between them, the application filed by the Union is materially strengthened by the statement in reply filed on behalf of Sealord which concedes that bargaining has been *unduly protracted* and supports the application for facilitation on the basis that the facilitation process *will assist the parties*.

Determination

[6] I am satisfied on the material before me that this is a proper case for the exercise of the Authority's discretion to grant facilitation and I now confirm the intimation I have already made to the parties, in the telephone conference I convened on 24 March 2010, that facilitation in the instant matter is granted.

[7] I told the parties in the telephone conference that I would promptly arrange for the Chief of the Authority to allocate a Member of the Authority to act as the facilitator for this matter and I confirm that I have attended to that obligation already. The Chief of the Authority, James Wilson, will convene a further telephone conference with the parties' representatives with a view to identifying a timetable within which the facilitation can take place. I am aware that the Chief of the Authority has already identified a number of Members who could potentially be available as facilitators in the present matter.

James Crichton
Member of the Employment Relations Authority