

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2011] NZERA Auckland 238  
5341863

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| BETWEEN | RAIL & MARITIME<br>TRANSPORT UNION INC<br>Applicant               |
| AND     | QUALITY MARSHALLING<br>(MOUNT MAUNGANUI)<br>LIMITED<br>Respondent |

Member of Authority: Alastair Dumbleton

Representatives: Phil Spanswick, advocate for Applicant  
Chris Emmens, advocate for Respondent

Determination: 3 June 2011 (on papers)

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**DETERMINATION OF THE AUTHORITY**

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**Application for facilitation**

[1] Application for Authority facilitation was made by the Rail & Maritime Transport Union Inc under s 50C of the Employment Relations Act 2000.

[2] The ground relied upon by the Union, under s 50C(1)(b), is that bargaining for a collective agreement with Quality Marshalling has become unduly protracted and that extensive efforts, including mediation, have failed to resolve the difficulties that have prevented the parties from concluding an agreement.

[3] During a telephone conference on 2 June 2011 the parties' advocates, Mr Spanswick and Mr Emmens, agreed that the Authority could determine the facilitation application on the papers without needing to hear from them in person. Mr Emmens advised that Quality Marshalling did not oppose the application, although neither did the company consent to it.

**Determination**

[4] I have considered the material supplied by both parties and the advice given by their advocates during the telephone conference and I am satisfied that grounds under s 50C(1)(b) of the Act exist enabling the Authority to accept the reference for facilitation.

[5] It is now two years since bargaining was initiated in May 2009. A schedule presented by the Union shows various dates on which negotiations and mediation have been held in that time. The timeline of various events indicates the prolonged nature of bargaining which, I find, has become unduly protracted given the apparently sole remaining issue that the parties are finding difficult to resolve. I am satisfied that extensive efforts, including mediation, have not resolved those difficulties and that therefore this is an appropriate case for facilitation.

[6] Shortly arrangements will be made with the advocates to bring them into contact with another Member of the Authority who will provide facilitation. That process will then begin in accordance with the arrangements made in conjunction with that Member.

A Dumbleton  
**Member of the Employment Relations Authority**