

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2012] NZERA Auckland 134
5378095

BETWEEN PORTS OF AUCKLAND
 LIMITED
 Joint Applicant

AND MARITIME UNION
 OF NEW ZEALAND
 Joint Applicant

Member of Authority: Robin Arthur

Representatives: Richard McIlraith and Kylie Dunn for the Ports of
 Auckland Limited
 Simon Mitchell for the Maritime Union of New Zealand

Investigation Meeting: On the papers

Determination: 17 April 2012

DETERMINATION OF THE AUTHORITY

The Authority accepts the joint application of the parties for their bargaining for a collective agreement to be referred for facilitation under section 50B of the Employment Relations Act 2000.

Employment relationship problem

[1] Parties bargaining about a collective agreement may apply to the Authority for facilitation to assist in resolving difficulties in concluding the agreement: s50B and s161(1)(ca) of the Employment Relations Act 2000 (the Act).

[2] Ports of Auckland Limited (POAL) and the Maritime Union of New Zealand (the union) have jointly applied for a reference to facilitation on the ground that there

have been protracted strikes and lockouts during the course of their bargaining for a collective agreement.

[3] Under s50C(1)(c) of the Act the Authority may accept a reference for facilitation on that ground. From the supporting information provided in the parties' application and extensive media reports of the dispute I am satisfied that ground exists.

[4] Union members have been on strike nine times since bargaining began for a new collective agreement on 6 September 2011. POAL locked out union members on 3 and 4 December 2011. On other occasions both parties have issued notices of more industrial action – either a strike or a lock out – but subsequently withdrawn them.

[5] The parties have met on 22 occasions for the purpose of bargaining, at least ten times with the assistance of Department of Labour mediators.

[6] The parties have asked for facilitation by the Authority to occur on an urgent basis. Urgency is granted because of the importance of the matter to POAL and the union and the effects on the wider economic and social interests of other people and parties also affected by the difficulties in concluding the collective agreement.

[7] This matter is now referred for another member of the Authority, Alastair Dumbleton, to facilitate the collective bargaining. Shortly arrangements will be made for the parties' representatives to speak with him about the process of facilitation.

Robin Arthur
Member of the Employment Relations Authority