

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2012] NZERA Auckland 36  
5367509

BETWEEN                      NEW ZEALAND MEAT  
   WORKERS & RELATED  
   TRADES UNION INC  
   Applicant

AND                              AFFCO NEW ZEALAND  
   LIMITED  
   Respondent

Member of Authority:      Robin Arthur

Representatives:              Simon Mitchell, counsel for the Applicant  
   Graeme Malone, counsel for the Respondent

Investigation:                On the papers

Determination:                24 January 2012

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**DETERMINATION OF THE AUTHORITY**

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- A.      This matter involves an issue related to a matter already removed to the Employment Court.**
- B.      The Authority orders removal of this matter to the Employment Court under s178 of the Employment Relations Act 2000.**

[1]      By a determination issued on 22 December 2011 the Authority removed to the Employment Court a matter between the New Zealand Meat and Related Trades Workers Union (the Union) and AFFCO New Zealand Limited (AFFCO) concerning whether consultation was required for the introduction of a particular tally for work at AFFCO's Moerewa plant this season.<sup>1</sup>

[2]      On 23 December 2011 the Union lodged an application for an order for

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<sup>1</sup> [2011] NZERA Auckland 550.

AFFCO to comply with what the Union said was an unwritten site agreement that included terms concerning the size of the tally. The Union contends the size of the tally cannot be changed without its agreement.

[3] The union also applied for this issue of whether AFFCO could vary the tally without the Union's agreement to be removed to the Employment Court. It did so on two grounds:

- (i) An important question of law was likely to arise in the matter; and
- (ii) The Court had before it proceedings between the same parties on the same or similar issues.

[4] AFFCO has yet to lodge a statement in reply on this application but was asked, through counsel, for its position on the removal application. AFFCO had no objection to removal but thought the application was unnecessary. It suggested the question of whether agreement was required for changes to tally could have been included anyway in the Union's statement of claim on the matter regarding consultation that has already been removed to the Court.

[5] I am satisfied the two matters of whether both consultation and agreement regarding this season's tally were required and occurred are, plainly, related. They should both be before the Court for that reason. The ground for removal under s178(2)(c) is made out. I see no reason for the Authority to exercise its residual discretion not to remove the matter on that ground.

[6] As a result I do not need to make any determination on the other ground advanced regarding an important question of law likely to arise in the matter other than incidentally.

Robin Arthur  
Member of the Employment Relations Authority