

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2013] NZERA Auckland 315
5426044

BETWEEN NEW ZEALAND AIR LINE
 PILOTS ASSOCIATION
 IUOW INC
 Applicant

A N D VIRGIN AUSTRALIA (NZ)
 EMPLOYMENT AND
 CREWING LIMITED
 Respondent

Member of Authority: Alastair Dumbleton

Representatives: Richard McCabe, counsel for Applicant
 Shan Wilson and John Rooney, counsel for Respondent

Date of Determination: 24 July 2013

DETERMINATION OF THE AUTHORITY

- A. NZALPA and Virgin are referred for facilitation of their collective bargaining.**

- B. Costs lie where they fall.**

Application for reference to Authority for facilitation

[1] For about four years off and on the applicant, New Zealand Air Line Pilots Association IUOW Inc. (NZALPA) and the respondent, Virgin Australia (NZ) Employment and Crewing Ltd (Virgin), have been engaged in bargaining for a collective agreement. The agreement is intended to cover pilot members of NZALPA flying aircraft for Virgin's airline. They have not had collective coverage before.

[2] Following further mediation between 12 and 27 June 2013 and still without settlement of an agreement, NZALPA applied to the Authority under s 50B-C of the

Employment Relations Act 2000 to have the bargaining referred for facilitation to be provided by the Authority.

[3] The grounds on which a reference may be accepted are set out at s 50C and before a referral is made they must be present to the satisfaction of the Authority. I am satisfied from a joint memorandum of counsel for the parties that the required grounds do exist. Counsel have endorsed facilitation by an Authority member as being a way to assist them achieve settlement of a collective agreement.

[4] On the papers I am satisfied that bargaining has been unduly protracted and that extensive efforts including mediation have not resolved difficulties preventing NZALPA and Virgin from reaching agreement, and doing so on terms which have a reasonable prospect of being ratified by the pilots to become the parties' collective agreement.

[5] It is also a persuasive factor that notice of strike action has been issued by NZALPA to Virgin, although it was later withdrawn when the parties agreed to mediation. It is likely that if settlement cannot be reached industrial action will follow and in that event there will be disruption to public transportation which will affect the interests of the public.

Determination

[6] For the above reasons, by consent, the Authority grants the application for referral. An Authority Member has been assigned to provide the facilitation, the process for which is under s 50E-I of the Act.

[7] The parties have agreed that costs will lie where they fall in respect of this referral application.

A Dumbleton
Member of the Employment Relations Authority