



[3] Against this background, the Union's application to the Authority seeks a declaration that a postie, who is otherwise eligible for RMA, is entitled to payment of the allowance on a pro-rata basis in the event that an individual postie and NZ Post agree to a reduction of contractual hours of work below those regarded as full-time.

[4] In contrast, NZ Post states that changes made to the roster and remuneration system do not alter the application of the RMA. Payment of the RMA continues to require posties to engage in full time employment to obtain the allowance. NZ Post submits that the Union is effectively seeking to have the Authority set new terms and conditions of employment which is precluded by the Employment Relations Act<sup>1</sup>. It says the Union's claim should be dismissed.

[5] As is permitted by s.174 of the Employment Relations Act I have not recorded all the information provided by the parties, and the conclusions made in this determination are confined to stating findings of fact and law only as necessary to dispose of the matter.

### **Summary of relevant background information**

#### *The Roster Make-up Allowance*

[6] During bargaining in 2000 for a collective agreement NZ Post and the Union agreed that the number of hours of work required by posties to achieve full-time work would be reduced from 40 hours per week to 37 hours and 40 minutes.

[7] Forming part of the settlement to those negotiations, the parties agreed to the RMA to bridge the gap (for full- time posties employed at that time) between income obtained previously through a 40 hour week and the reduction in full-time hours. The agreement was recorded in 'Terms of Settlement 2000-2002'<sup>2</sup> and has remained in subsequent collective agreements to date.

[8] Operationally NZ Post has allowed eligible posties to receive pro-rated payment of the RMA in circumstances where, for example, posties take sick leave within a relevant pay cycle and full-time work is not achieved. It has been common ground however, that when an otherwise eligible employee subsequently elected<sup>3</sup> to

---

<sup>1</sup> Section 161(2)(b) Employment Relations Act 2000

<sup>2</sup> At clauses 11 to 12 Terms of Settlement 2000-2002

<sup>3</sup> With the agreement of NZ Post

permanently reduce his or her hours of work below the definition of full-time work, entitlement to the RMA ceases. This approach is the subject of the Union's challenge.

### *The Postie Pay Model*

[9] Between 2006 and 2010 NZ Post and the Union engaged in trialling alternative roster and remuneration systems over a small range of delivery branches.

[10] In April 2010 NZ Post identified its preference for PPM. It signalled to the Union that it intended to bargain for the incorporation of PPM into the next collective agreement but acknowledged "*all matters relating to the implementation of the PPM are open for negotiation and must proceed by agreement*".<sup>4</sup>

[11] Four versions of the proposed collective agreement were exchanged between representatives of the parties. Each made several amendments to the draft document. The Union says it was not until after the collective agreement had been executed that it became apparent that the parties did not have the same understanding as to how the RMA would be applied.

### **Issues**

[12] The Authority is required to determine whether an otherwise eligible employee is entitled to payment of RMA on a pro-rata basis if s/he voluntarily reduces hours of work to part-time.

### **Discussion**

[13] The collective agreement 2011-2013 provides that where there is conflict between the provisions in section N and any other parts of the collective agreement, the provisions in N will prevail.

[14] The disputed clause sits within a group of provisions under the heading '*Base Rate (up to 37 40)*'. N.15 states:

*The Roster Make-up Allowance will be added to the Base Rate for existing employees who are entitled to this allowance.*

[15] During the Authority's investigation meeting considerable focus was placed by both parties on what is meant by the contents of N.15 and in particular the phrase "*will be added to*".

---

<sup>4</sup> Letter dated 20 April 2010

[16] The Union says it is clear from the wording that the RMA became an intrinsic part of the base rate. In contrast NZ Post urges the Authority to regard the phrase as meaning the RMA will be *in addition* to the base rate.

[17] There is no dispute that during bargaining each party making alterations to 'Base Rate' provisions but that neither party discussed with the other its reasons for altering the words or the structure to the proposed 'Base Rate' provisions.

[18] The Union further says it relied on information provided outside the parameters of bargaining by NZ Post, that the RMA would no longer be regarded as an allowance but would now form part of a "*rolled up*" base rate going forward (for those employees that were eligible). It refers to a booklet, 'An Introduction to the Postie Pay Model (PPM)', given to posties during NZ Post's promotion of PPM, which states:

*For Posties who currently qualify for the roster make-up allowance, they will also have this built into their standard hourly rate<sup>5</sup>.*

[19] In contrast, NZ Post refers to the front page of the information booklet which provides:

*The details outlined in this booklet are subject to change following our 2011 Collective Employment Agreement negotiations.*

[20] I consider the phrase "*will be added*" does allow for more than one meaning. However I do not consider that this issue needs to be decided to determine and dispose of the Union's application.

[21] The Union seeks a finding that a postie remains eligible for the RMA (paid on a pro-rata basis) in circumstances where hours of work are voluntarily reduced below that regarded full time. Whether or not the RMA forms an intrinsic component of a postie's hourly base rate or is paid in addition to the base rate, I consider the wording set out in the second half of N.15; "*for existing employees who are entitled to this allowance*" is critical.

---

<sup>5</sup> Page 8

[22] Entitlement to the RMA is set out in the Letter of Settlement 2000-2002 at clauses 11 and 12. Clause 11 establishes that the first condition of eligibility for the RMA requires a postie to have been engaged in full time work as at 5 July 2000.

[23] Clause 12 sets out the second condition for eligibility in the following way:

*12 This means that existing full-time Employees will be paid a roster allowance for the period between the full-time hours that are rostered to be worked as defined by their individual occupational groups and 40 hours. ...*

[24] The wording of clause 12 is plain. Entitlement to the RMA requires an employee to be engaged in full time employment. Payment of RMA is to compensate posties from a reduction in earnings between a 40 hour working week and the definition of full time hours following the conclusion of the collective agreement 2000.

[25] I am satisfied that between its inception in 2000 and the collective agreement 2011-2013, entitlement and payment of the RMA required two prerequisite conditions; full time employment as at 5 July 2000, and contemporaneous full time employment.

[26] Next, having assessed the provisions in the Terms of Settlement against the provisions in the collective agreement 2011-2013 I was unable to identify any conflict between the provisions contained at N and the RMA provisions of 2000. There are no words that suggest the 2011-2013 collective agreement extinguishes either of the conditions set out at clauses 11 and 12 of the Letter of Settlement 2000-2002.

[27] My view that payment of the RMA continues to be dependent on both prerequisites is further reinforced when I consider the wording of N.15 and in particular its explicit reference to the RMA as being only available “*for existing employees who are entitled*”. I find the use of the word “*entitled*” unequivocally refers to and affirms that the conditions for entitlement set out in the Terms of Settlement 2000-2002 remain active.

[28] I am unable to agree with a proposition inferred by the Union that once an RMA inclusive base rate is established, the prerequisites for ongoing payment are no longer required to be met. Whether as a component of the base-rate or as an addition

to the base rate the threshold for payment of the RMA continues to be restricted to full-time rostered employment.

[29] It follows then that even if the RMA is a component of the base rate for eligible employees, there is no contractual basis to conclude that an assigned base rate (inclusive of RMA) remains intact following a subsequently agreed reduction to part time hours.

### **Determination**

[30] I find that an entitlement to RMA requires a postie to maintain full time employment. There is nothing in the collective agreement 2011-2013 which modifies the prerequisite conditions to obtain entitlement to the RMA such that a postie who voluntarily reduces his or her hours to part time is entitled to payment of the RMA on a pro-rata basis. The Union's application is dismissed.

### **Costs**

[31] Costs are reserved.

Michele Ryan  
Member of the Employment Relations Authority