

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

[2016] NZERA Auckland 328
5639628

BETWEEN THE NEW ZEALAND
 TERTIARY EDUCATION
 UNION INC
 Applicant

A N D THE CHIEF EXECUTIVE OF
 NORTHLAND POLYTECHNIC
 Respondent

Member of Authority: Anna Fitzgibbon

Representatives: Peter Cranney, Counsel for Applicant
 David Grindle, Counsel for Respondent

Investigation Meeting: On the papers

Date of Determination: 26 September 2016

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] On 29 August 2016 the applicant, the New Zealand Tertiary Education Union Inc (the Union), has applied to the Authority for a reference for facilitation on the grounds that bargaining has been unduly protracted and extensive efforts (including mediation) have failed to resolve the difficulties that have precluded the parties from entering into a collective agreement.

[2] The respondent, the Chief Executive of Northland Polytechnic (North Tec), does not oppose the application and has acknowledged that bargaining has become unduly protracted and despite extensive efforts (including mediation) the parties have been unable to conclude issues and enter a collective agreement.

[3] By consent this matter has been determined on the papers filed.

Grounds for referral to facilitation

[4] Under s.50C of the Employment Relations Act 2000 (the Act), the Authority must not accept a reference for facilitation unless satisfied that one or more of the statutory grounds under s.50C(1)(a), (b), (c) or (d) of the Act exists.

[5] The Union relies on the ground in s.50C(1)(b) of the Act, "...(i) that the bargaining has been unduly protracted; and (ii) extensive efforts (including mediation) have failed to resolve the difficulties that have precluded the parties from entering into a collective agreement."

[6] Bargaining was initiated by the Union on 1 May 2015 followed by bargaining meetings with North Tec on 28 July 2015, 30 July 2015, 20 August 2015, 9 September 2015, 2 December 2015 and 5 February 2016.

[7] The parties attended mediation on 3 May 2016 and on 13 May 2016, North Tec's Chief Executive Officer resigned. A further meeting was held between the parties on 25 July 2016.

[8] Both the Union and North Tec acknowledge that they are having serious difficulties in concluding a collective agreement.

[9] The parties have been unable to reach a concluded agreement despite meeting on a number of occasions and attending mediation.

[10] I have concluded that the ground under s.50C(1)(b) of the Act is established. The bargaining has been unduly protracted. The bargaining has extended over a 17 month period. Extensive efforts, including six bargaining sessions and attendance at mediation, have failed to resolve the difficulties.

Determination

[11] For the reasons above, the Authority will accept the reference for facilitation and, as required by s.50D of the Act, another Member will provide facilitation of the collective bargaining.

Anna Fitzgibbon
Member of the Employment Relations Authority