

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

[2017] NZERA Auckland 104  
3005231

BETWEEN THE POSTAL WORKERS  
UNION OF AOTEAROA INC  
First Applicant

A N D ETU INCORPORATED  
Second Applicant

A N D NZ POST LIMITED  
Respondent

Member of Authority: T G Tetitaha

Representatives: S Mitchell, Counsel for First Applicant  
L McWilliams-Smith, Counsel for Second Applicant  
H Kingston/L. Hercus, Counsel for Respondent

Investigation Meeting: On the papers

Submissions Received: 14 and 30 March 2017 from Applicants  
16 and 28 March 2017 from Respondent

Date of Determination: 4 April 2017

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**DETERMINATION OF THE AUTHORITY**

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**A. Urgency is declined. Costs are reserved.**

**Employment relationship problem**

[1] The applicants seek an urgent hearing to be allocated. This is on the basis of the recent implementation of a new rostering system and alleged accidents by workers using “Paxsters” - small motorised vehicles used to deliver mail.

[2] The respondent denies there were the “many accidents and injuries” as alleged by the applicants through the use of Paxsters. It also submits the four day rosters have been in place since June 2016. There is a dispute about what was agreed regarding the four day rosters.

[3] A working group comprising representatives from both parties have been looking at the roster design and health and safety aspects since April 2016.

[4] On 22 November 2016 the group engaged an expert to look at the issues of fatigue. The parties disagreed about the terms of reference. The expert has held a focus group with the parties and is due to report shortly.

[5] On 16 March 2017 the parties attended a telephone conference. Further evidence and information was directed to be filed about the issue with urgency. The parties were also directed to mediation to occur this week. The matter is now before me for determination.

### **Issues**

[6] Upon application the Authority may “accord urgency to an investigation” and if satisfied that it is necessary and just to do so order that the investigation take place as soon as practicable.<sup>1</sup>

### **Determination**

[7] Having considered the parties submissions and evidence, I decline urgency. This is because:

- a) There are findings sought under the Health and Safety at Work Act 2015 (2015 Act). The District Court has both the civil and criminal jurisdiction to determine those matters. I do not;
- b) If there are immediate health and safety concerns the applicants may notify WorkSafe New Zealand and seek enforcement action for breaches of the 2015 Act. That is a more appropriate investigatory body than the Authority to ascertain and take immediate action on the health and safety concerns giving rise to the request for urgency here;
- c) The alleged breach of clause 3 of the parties collective agreement are complex. This requires substantial evidence about the parties agreements about the four day rosters (whether fixed or floating) and how the parties were to implement through the use of ‘Paxsters’;

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<sup>1</sup> Clause 17, Schedule 2 Employment Relations Act 2000

- d) Further expert evidence about these issues of concern is due to be released shortly. It may assist the parties to resolve matters;
- e) The experts should confer in advance of any hearing to attempt agreement about the issues of contention between the parties; and
- f) A further telephone conference can be set down once this information is available to assess the readiness for hearing thereafter in the usual way. It appears premature to allocate a hearing date at this stage. The above process shall ensure the complexity of this matter is addressed in a timely fashion.

[8] Urgency is declined. Costs are reserved.

**T G Tetitaha**  
**Member of the Employment Relations Authority**