

**IN THE EMPLOYMENT RELATIONS AUTHORITY
AUCKLAND**

**I TE RATONGA AHUMANA TAIMAHI
TĀMAKI MAKĀURAU ROHE**

[2022] NZERA 562
3188799

BETWEEN THE NEW ZEALAND PUBLIC
SERVICE ASSOCIATION INC
TE PUKENGA HERE
TIKANGA MAHI
Applicant

AND WAIKATO DISTRICT
COUNCIL
Respondent

Member of Authority: Alastair Dumbleton

Representatives: Caroline Mayston, counsel for Applicant
Christine Pidduck, counsel for Respondent

Consideration of papers: 25 October 2022

Determination: 1 November 2022

DETERMINATION OF THE AUTHORITY

**The Authority accepts the applicant union's reference for
facilitation of collective bargaining with the respondent employer.**

Employment relationship problem

[1] The Employment Relations Act 2000 (the ER Act) provides a process which enables parties to collective bargaining who are having serious difficulties in concluding a collective agreement, to seek the assistance of the Authority in resolving those difficulties.

The application by the PSA

[2] The New Zealand Public Service Association Te Pukenga Here Tikanga Mahi Inc (the PSA) has applied to the Authority, under s 50B of the ER Act, for assistance with bargaining for a collective agreement initiated by it with the Waikato District Council (WDC) in January 2020.

[3] The PSA finds that serious difficulties are preventing an agreement from being concluded with WDC and the union seeks a reference to facilitated bargaining as a means of overcoming those difficulties.

[4] The union asserts that negotiations have become unduly protracted and that extensive efforts have failed to resolve the difficulties, and that accordingly grounds exist under s 50C(1)(b) of the ER Act for accepting the application for assistance.

[5] Since bargaining was initiated in January 2020 there have been nine bargaining meetings.

[6] A single issue, 'members only day', remains the sticking point between the parties.

The response of WDC

[7] The Council agrees with the PSA's views and supports a reference being granted for facilitation on the outstanding issue.

The contentious provisions

[8] The Authority accepts that the 'Members Only Day' and 'Pass On Of Conditions' clauses, in combination, are likely to be contentious in an employment where there is a mixture of union members and non-union members. The Authority accepts the parties have used their best endeavours to resolve the impasse between them but have not been able to.

[9] The statutory mechanism under s 50C can in the circumstances appropriately be invoked.

Reference for facilitation

[10] The grounds of s 50C(1)(b) of the ER Act relied upon in making the application, are met. The Authority accepts the reference for facilitation.

Facilitation process

[11] A member of the Authority appointed to provide facilitation will now contact counsel Ms Mayston and Ms Pidduck to make the necessary arrangements for assistance to be given as quickly as possible.

Alastair Dumbleton
Member of the Employment Relations Authority