

[4] TWO asserts in summary, as per s 50C of the Act that:

- (i) bargaining has been unduly protracted and extensive efforts to resolve matters have been unsuccessful (s 50C(1)(b));
- (ii) during the bargaining there have been one or more strikes by members of ASMS (s 50C(1)(c) of the Act);
- (iii) ASMS is proposing further strike action of an escalated nature that would substantially impact the public interest (s 50C(1)(d)).

[5] In a timely statement in reply of 25 September 2023, supported the referral to facilitation suggesting they had a common view that s 50C(1)(b) of the Act applied.

Should facilitation be granted?

[6] Having assessed the material before the Authority, I am of the view that grounds under s 50C(1)(b) are established and further s 50C(1)(d). Consequently, it is appropriate to order that the parties now engage in facilitation to assist them in a pathway to settlement of their differences.

Finding

[7] In considering all the circumstances, I find that sufficient grounds under s 50C of the Employment Relations Act 2000 have been met and a reference to facilitation is granted, which I believe will prompt and assist the parties to focus on the necessary steps to work toward a mutually agreed outcome.

Next steps

[8] The Authority will convene a case management conference this morning to discuss arrangements for urgent facilitation including the timing and the venue of such.

Costs

[9] There is no order for costs.

David G Beck
Member of the Employment Relations Authority