

**IN THE EMPLOYMENT RELATIONS AUTHORITY  
AUCKLAND**

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

[2024] NZERA 667  
3336360

BETWEEN OJI FIBRE SOLUTIONS (NEW  
ZEALAND) LTD  
First Applicant

AND PULP AND PAPER WORKERS UNION -  
KAWERAU INC  
Second Applicant

Member of Authority: Andrew Dallas

Representatives: David France, counsel for the First Applicant  
Tim Oldfield, counsel for the Second Applicant

Investigation Meeting: On the papers

Date of Determination: 11 November 2024

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**DETERMINATION OF THE AUTHORITY**

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**Employment relationship problem**

[1] Oji Fibre Solutions (New Zealand) Ltd (Oji) and the Pulp and Paper Workers Union, Kawerau (PPWU) have lodged a joint application for referral to facilitation of their stalemated collective bargaining,

[2] The parties are negotiating for a collective agreement (CA) to cover, and be binding upon, employees currently employed under individual employment agreements at the Kawerau Mill, which is owned and operated by Oji.

## **Background**

[3] Bargaining was initiated by way of Notice of Initiation served on Oji by the PPWU on 22 November 2023.

[4] Since bargaining was initiated, the parties have been actively bargaining including meeting on seven occasions: 16 January, 21 February, 18 March, 15 April, 15 May, 10 June, 25 July and 5 September 2024.

[5] On 15 May 2024, the PPWU issued a notice of strike action which involved workers covered by the notice refusing to work more than 40 hours per calendar week (Monday to Sunday) and a refusal to agree to any changes to start and finishing times.

[6] On 10 June and 18 October 2024, the parties also attended mediated bargaining sessions convened by the Employment Mediation Service of the Ministry of Business, Innovation and Employment.

[7] The parties are stalemated on several issues including coverage, “legacy” terms, recognition of additional hours, payment of a non-taxable travel allowance and additional leave entitlements.

[8] The PPWU has also alleged Oji has breached s 97 of the Employment Relations Act 2000 (the Act), undermined the bargaining and has discriminated against union members involved in strike action.

## **Application for facilitation**

[9] The parties assert two grounds under s 50C of the Act for referral. These are:

- (i) the 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: s 50C(1)(b); and
- (ii) in the course of bargaining there has been 1 or more strikes or lockouts and the strikes have been protracted or acrimonious: s 50C(1)(c).

### **Should facilitation be granted?**

[10] Only one proven ground is necessary for referral for facilitation under s 50C of the Act. Having fully considered the material placed before the Authority by the parties, I find the ground set out in s 50C(1)(b) is made out. However, it is highly likely the threshold for meeting the further ground (s 50C(1)(c)) has also been made out.

[11] Consequently, it is appropriate to order that the parties now engage in facilitation to assist them in a pathway to settlement, including potential ratification, of a collective agreement.

### **Next steps**

[12] The Authority will convene a case management conference with the parties as soon as possible to discuss arrangements for urgent facilitation including the timing and the venue of such.

### **Costs**

[13] As this is an application for facilitation, there is no order for costs.

Andrew Dallas  
Chief of the Employment Relations Authority