

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

**I TE RATONGA AHUMANA TAIMAHI
TE WHANGANUI-A-TARA ROHE**

[2025] NZERA 172
3365983

BETWEEN

NEW ZEALAND NURSES
ORGANISATION
Applicant

AND

HEALTH NEW ZEALAND TE
WHATU ORA
Respondent

Member of Authority: Andrew Dallas

Representatives: Machrus Siregar, counsel for the Applicant
Susan Hornsby-Geluk, counsel for the Respondent

Investigation Meeting: On the papers

Date of Determination: 25 March 2025

DETERMINATION OF THE AUTHORITY

Employment relationship problem

[1] Health New Zealand Te Whatu Ora (HNZTWO), the national public health system, are currently in bargaining for the renewal of the HNZTWO – NZNO Nursing and Midwifery Collective Agreement, 31 March 2023 – 31 October 2024.

[2] Suffice to say, and without criticising either party, bargaining between HNZTWO, and its predecessors, the district health boards, and the New Zealand Nurses Organisation (NZNO) has been quite challenging over several generations of bargaining and has resulted in several facilitation interventions by the Authority.

[3] On 19 March 2025, the NZNO made an application for referral of the bargaining dispute extant to the Authority for facilitation under s 50B of the Employment Relations Act 2000 (the Act).

[4] The ground advanced by NZNO for referral is that during the bargaining there has been one or more strikes (or lockouts) and the strikes (or lockouts) have been protracted or acrimonious: s 50C(1)(c) of the Act.

[5] In its statement of problem, NZNO expressed its view that HNZTWO did not oppose the application for referral for facilitation. This was confirmed by HNZTWO in a communication to the Authority on 20 March 2025. However, HNZTWO indicated that it wished to lodge a statement in reply as it believed there were additional grounds for referral to facilitation, which had not been raised by the NZNO.

[6] True to form, in the statement in reply lodged on 20 March 2025, HNZTWO advanced two further grounds for referral: its bargaining with NZNO had become unduly protracted and extensive efforts have failed to resolve the difficulties: s 50C(1)(b) and, during the bargaining NZNO had proposed strikes which if they were to occur would likely affect the public interest substantially: s 50C(1)(d)

[7] After receiving the statement in reply, the Authority asked the parties if they were content to now have the matter determined “on the papers”. HNZTWO agreed with course. NZNO advised that it required more time to consider this and said it would respond on 24 March 2025. Late on 24 March 2025, NZNO lodged a memorandum which advised it was content to have the matter heard on the papers but opposed the additional ground advanced by the HNZTWO in respect of s 50C(1)(d). However, it conceded the ground in s 50C(1)(c) was made out.

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[8] In light of the parties accepting that two grounds for referral to facilitation were made out, with only one required¹, the Authority advised the parties it would proceed to determine the matter “on the papers” being the statement of problem and the statement in reply.

The Authority’s view of the employment relationship problem

[9] The purpose of facilitation is to provide a process for parties who are having difficulties in concluding a collective agreement to seek the assistance of the Authority in resolving those difficulties. The Authority has developed and deployed significant skills and experience in the successful resolution of many bargaining disputes since being granted its facilitation jurisdiction in 2004.

[10] Having reviewed the material before the Authority, I am satisfied the ground for facilitation set out in s 50C(1)(c) is made out. It is not necessary to consider the other grounds advanced although the ground set out s 50C(1)(b) is also likely satisfied. All things considered, I refer the bargaining between NZNO and HNZTWO to another Member of the Authority for facilitation.

Next Steps

[11] An Authority Officer will contact the parties to discuss preparation for an urgent facilitation commencing without delay.

Costs

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

Andrew Dallas
Chief of the Employment Relations Authority

¹ Employment Relations Act, s 50C(1)