

**IN THE EMPLOYMENT COURT**  
**AUCKLAND REGISTRY**

**IN THE MATTER**

an application for declarations,  
injunctions and compliance  
orders

**BETWEEN**

New Zealand Meat Workers &  
Related Trades Union Inc

**First Plaintiff**

**AND**

Roberta Kerewai Ratu and  
others

**Second Plaintiffs**

**AND**

AFFCO New Zealand Limited

**Defendant**

**Hearing:** (telephone directions conference held on Monday, 31 July 2017 at  
9.00 am)

**Appearances:** P Cranney, counsel for the plaintiffs  
P Wicks QC, counsel for the defendant

**Minute:** 31 July 2017

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**MINUTE TO THE PARTIES OF JUDGE B A CORKILL**

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1. Counsel have updated the Court as to the various logistical steps that have been taken since early June, and as to those issues which will require resolution by the Court.
2. Holiday pay information has been provided by AFFCO to the Union, so that accurate calculations in respect of each applicant can be made on that entitlement.
3. With regard to any liability for interest, there are two issues. The first is a pleading matter, as raised by Mr Wicks QC at paras 7 to 11 of his memorandum of 18 July 2017. Mr Cranney will reply to this by memorandum which is to be filed and served by **8 August 2017**.

4. Subject to the pleading point, counsel have advised the Court they do not need to make any further submissions.

5. Accordingly, I will resolve the pleading issue; to the extent that the issue is properly before the Court, I will then resolve the question which is raised as to the correct methodology. These decisions will be made on the papers.

6. Thirdly, I refer to the intakes issue. There is no longer an issue as to res judicata. Mr Cranney says there are 34 Intake 2 workers, and 19 Intake 3 workers, who are affected by this argument. It does not affect the 87 Intake 1 workers. Counsel are agreed that the circumstances will have to be resolved on a per applicant basis.

7. The first step for the purposes of resolving these issues will be for AFFCO to provide detailed evidence as to the placement of workers in Intakes 2 and 3, rather than Intake 1. Then the Union will need to file and serve its evidence in response. AFFCO may file evidence in reply.

8. A tentative timetable, which I set out below, will span some nine weeks – although this is subject to counsel taking immediate instructions on the timeframe which each of Mr Wicks and Mr Cranney have proposed. I request counsel to inform the Court by close of business tomorrow if there are any difficulties in that regard.

9. The timetable for the filing and serving of evidence (subject to confirmation by counsel) is as follows:

- a. AFFCO is to file and serve its evidence by **28 August 2017**;
- b. The Union is to file and serve its evidence by **18 September 2017**;
- c. AFFCO is to file and serve any reply evidence **by 2 October 2017**.

10. I discussed with counsel whether, once the evidence has been filed and served, it would be prudent for the parties to engage in an alternative dispute resolution process, since otherwise the Court will be required to consider the circumstances of some 53 workers. It is agreed that the parties should actively explore such a possibility. I observe that the parties have engaged constructively and successfully in the past on a range of employment related issues, and it would be desirable, in this instance, for the same to

occur. That said, if the parties cannot resolve these issues either informally or by an ADR process, the Court will do so formally.

11. Accordingly, I will review the circumstances in a further telephone directions conference with counsel at **9.00 am on 25 October 2017**. If matters have not been resolved by then, or there is no reasonable prospect of that occurring, counsel will need to provide the Court with an accurate time estimate for a hearing which can then be scheduled.

12. The next topic which I discussed with counsel related to the possibility, once any interest issues have been resolved, of judgment being entered in respect of the 87 workers under Intake 1, and for the uncontested elements of the claims of the 53 workers in Intakes 2 and 3. It is proposed that such a judgment would lie in Court until further order of the Court. This would of course enable the position to be reviewed once the Supreme Court has issued its judgment in the proceeding which is before it.

13. The parties are agreed that it would be appropriate to file a joint memorandum as to this possibility, once there is a determination of the issues relating to interest. When I issue my judgment on that topic, then, I will establish a suitable timetable.

14. Finally, I indicated to counsel that although the Court has to this point accepted that a sequential process for the resolution of the various issues as to quantum would be, and has been, appropriate and constructive, it is important that the Court be informed as to all outstanding issues as to quantum. If there is any possibility of any further issues having to be resolved beyond those to which reference has been made in this minute, I will need to be informed of them at the telephone conference on **25 October 2017**.

B A Corkill  
Judge