

**IN THE EMPLOYMENT COURT
AUCKLAND**

**[2010] NZEMPC47
ARC 83/09**

IN THE MATTER OF a challenge to determination of
Employment Relations Authority

BETWEEN MARITIME UNION OF NEW ZEALAND
Plaintiff

AND PORTS OF AUCKLAND LIMITED
Defendant

Hearing: Auckland
28 April 2010

Appearances: Simon Mitchell, Counsel for Plaintiff
Richard McLraith and Kylie Dunn, Counsel for Defendant

Judgment: 5 May 2010

JUDGMENT OF JUDGE M E PERKINS

[1] These proceedings have come before the Court as a challenge to a determination of the Employment Relations Authority (the Authority) dated 8 September 2009. An election has been made to those parts of the determination to which the challenge relates pursuant to s 179 of the Employment Relations Act 2000 (the Act).

[2] On the first day set for the hearing the parties entered into discussions and then indicated to the Court that an agreed position had been reached which would not require the hearing of evidence. It was agreed that the matter could be dealt with by way of consent orders. Accordingly, following a brief hearing with counsel I reserved judgment so that a decision of the Court could be made pursuant to s 183(1) of the Act.

[3] The point to be covered by this decision relates primarily to paragraph [19] of the determination of the Authority. By consent the decision of this Court is that the last sentence in paragraph [19] of the determination is deleted. The following words are added as a further sentence:

As both parties agreed the outgoing workers do not attend the verbal briefing.

[4] For the sake of completeness the entire paragraph [19] now reads:

[19] I find the plain meaning of 5.2.2 is to provide a paid half hour to incoming workers to allow them to commence their duties at the conclusion of that half hour fully briefed without overlap with the out-going shift. As both parties agreed, the out-going workers do not attend the verbal briefing.

[5] Section 183(2) of the Act requires that once the Court has made a decision the determination of the Authority on the matter is set aside and the decision of the Court on the matter stands in its place. Accordingly, I also incorporate into this decision an order that all the remaining paragraphs of the determination remain unaltered and form part of this decision along with paragraph [19] as above amended.

[6] Counsel confirm that no issues as to costs remain outstanding either in respect of the proceedings before the Authority or this Court.

M E Perkins
Judge

Judgment signed at 10am on 5 May 2010