

IN THE COURT OF APPEAL OF NEW ZEALAND

**CA700/2015
[2016] NZCA 121**

BETWEEN AFFCO NEW ZEALAND LIMITED
 Applicant

AND NEW ZEALAND MEAT WORKERS &
 RELATED TRADES UNION INC
 First Respondent

 ROBERTA KEREWAI RATU AND
 OTHERS
 Second Respondents

Hearing: 14 March 2016 (further submissions received 17 March 2016)

Court: Harrison, Wild and Cooper JJ

Counsel: P F Wicks QC and G P Malone for Applicant
 P Cranney and S R Mitchell for Respondents

Judgment: 13 April 2016 at 11.30 am

JUDGMENT OF THE COURT

A The application for leave to appeal against the judgment of the Employment Court in *New Zealand Meat Workers & Related Trades Union Inc v AFFCO New Zealand Ltd* is granted.¹

B The questions of law for determination by this Court are:²

- 1. Did the Employment Court err in finding the second respondents were engaged by AFFCO New Zealand Ltd on employment agreements of indefinite duration with the result that employment**

¹ *New Zealand Meat Workers & Related Trades Union Inc v AFFCO New Zealand Ltd* [2015] NZEmpC 204.

² Employment Relations Act 2000, s 214.

was not terminated when they were laid off at the end of the season?

- 2. Did the Employment Court err in holding that s 82(1)(a)(iv) of the Employment Relations Act 2000 applied even if there was no employment relationship between AFFCO New Zealand Ltd and the second respondents in the off season?**
- 3. Did the Employment Court err in holding that AFFCO New Zealand Ltd's new form of individual employment agreement did not comply with s 61(2)(b) of the Employment Relations Act 2000?**

C There will be no order for costs on the application for leave given that the respondents' opposition was reasonable.

REASONS OF THE COURT

(Given by Cooper J)

[1] We are satisfied that the three questions set out above meet the requirement of s 214(3) of the Employment Relations Act 2000 which stipulates that leave may only be granted for an appeal from the Employment Court if the question of law involved is one that by reason of its general or public importance or for any other reason ought to be submitted to the Court of Appeal for decision.

[2] The appellant also sought leave in respect of a fourth question, which would ask whether the Employment Court acted in breach of natural justice by reaching a conclusion that AFFCO New Zealand Ltd had breached an obligation to act in good faith without sufficient evidence and without AFFCO New Zealand Ltd being afforded the opportunity to be heard. We are satisfied that that question could not be characterised as one that by reason of its general or public importance, or for any other reason should be submitted to this Court for decision.

[3] There will be no order for costs on the application for leave given that the respondents' opposition was reasonable.

Solicitors:
Oakley Moran, Wellington for Respondents