

**IN THE EMPLOYMENT COURT  
WELLINGTON**

**[2010] NZEMPC 8  
WRC 49/09**

IN THE MATTER OF proceedings removed from the  
Employment Relations Authority

BETWEEN NORTHLAND DISTRICT HEALTH  
BOARD AND 20 OTHERS  
Plaintiffs

AND NEW ZEALAND RESIDENT DOCTORS'  
ASSOCIATION INC  
Defendant

Hearing: 10 February 2010  
(Heard at Wellington)

Appearances: Hamish Kynaston and Andrea Pazin, Counsel for Plaintiffs  
Bill Manning and Anna Paton, Counsel for Defendant

Judgment: 10 February 2010

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**ORAL JUDGMENT OF CHIEF JUDGE GL COLGAN**

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[1] This is a case about whether collective bargaining has been initiated lawfully by the defendant.

[2] Bargaining had been put on hold until this issue is determined because the outcome of the case will affect significantly the nature and content of the collective bargaining.

[3] I have reached a clear view about the decision that I am required to make and in order to allow bargaining to commence or resume as soon as possible I will simply give my decision now and reasons in more detail in writing will follow.

[4] The case turns on whether notices initiating bargaining under s 42 of the Employment Relations Act 2000 (the Act) were given lawfully by the defendant to the plaintiffs. The case focuses particularly on the manner in which the s 42 notices were signed.

[5] There are three separate issues in the case as it has been advanced and defended.

[6] The first issue is whether the s 42 notices were signed lawfully in the form that they were originally given. The second issue is that if they were not, whether the defendant validated them retrospectively. Even if the plaintiffs succeed in either or both of those first two issues, the third is independent of the results of those although it will be affected by them. That third issue is whether, under s 219 of the Act, the Court is entitled to, and if so should, validate any informality of the notices initiating bargaining.

[7] The clear view that I have come to is that the defendant must and does succeed in the litigation, that the plaintiffs' position is not tenable in law, and that bargaining in reliance on the notices as originally given should now proceed.

GL Colgan  
Chief Judge

Judgment delivered orally at 2.32 pm on Wednesday 10 February 2010