

**IN THE EMPLOYMENT COURT
CHRISTCHURCH**

**[2012] NZEmpC 164
CRC 32/12**

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

BETWEEN SERVICE AND FOOD WORKERS
UNION NGA RINGA TOTA INC
Plaintiff

AND SANFORD LIMITED
Defendant

Hearing: 25 September 2012
(Heard at Nelson)

Appearances: Timothy Oldfield, counsel for plaintiff
Neil McPhail, advocate for defendant

Judgment: 25 September 2012

ORAL JUDGMENT OF CHIEF JUDGE G L COLGAN

[1] I have reached a clear view that the Union's reference to facilitation should be accepted by the Employment Relations Authority and there will be an order accordingly. However, I think that there should be further urgent mediation to continue that which was conducted on 13 September 2012.

[2] Directing further urgent mediation is not only consistent with, but is arguably required by, s 188 of the Employment Relations Act 2000. Subsection (3) allows the Court to defer its judgment taking effect and I will do so for the period of one calendar month from today's date. What that means in practice is that there will be a reference to facilitation in the Authority, but that order will lie in Court or not take effect until at least one month from today's date. The further urgent mediation

assistance with the bargaining should take place within that period of one month from today's date.

[3] If the parties are able to settle their collective agreement with the assistance of a mediator in bargaining within the next month, then there will be no need for Employment Relations Authority facilitation. Otherwise, there will be a facilitation that will take effect one month hence.

[4] I propose reserving costs. For the reasons that I will set out in my reasons for judgment that I will issue later, I will recommend that the Authority Member who decided the case, from which this is a challenge, not be the Member who conducts the facilitation.

GL Colgan
Chief Judge

Judgment delivered orally at 1.03 pm on Tuesday 25 September 2012