

**IN THE EMPLOYMENT COURT
AUCKLAND**

**[2012] NZEmpC 205
ARC 80/12**

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

BETWEEN THE PULP & PAPER INDUSTRY
COUNCIL OF THE MANUFACTURERS
AND CONSTRUCTION WORKERS
UNION
Plaintiff

AND NORSKE SKOG TASMAN LIMITED
Defendant

Hearing: 4 December 2012
(Heard at Auckland)

Counsel: Kathryn Beck and Shelley Kopu, counsel for plaintiff
Kylie Dunn and June Hardacre, counsel for defendant

Judgment: 4 December 2012

ORAL JUDGMENT OF JUDGE B S TRAVIS

[1] The challenge is allowed. The following replaces the determination of the Employment Relations Authority in terms of s 183(2) of the Employment Relations Act 2000.

[2] For the reasons I will give in writing I make the following declarations:

- a) The defendant company is entitled to define the affected work areas having had discussion with the relevant Union in terms of cl 3 of the Redundancy and Redeployment Policy dated 21 August 2011 (the Policy).

- b) That the redundancy of positions in the Paper Mill is as a result of asset closure in terms of cl 3.1(a) of the Policy.
- c) The employees in redundant positions are those employed on Paper Machine 2 (PM2).
- d) The processes set out in cl 3.12(a) and (i) of the Policy therefore apply to employees employed in the Paper Mill.

[3] The parties have fairly agreed that this is a test case on a dispute over the interpretation of the relevant documents and that costs can lie where they fall.

B S Travis
Judge

Judgment delivered at 2.58 pm on 4 December 2012