

**IN THE EMPLOYMENT COURT**  
**AUCKLAND REGISTRY**

**IN THE MATTER**

an application for compliance orders

**BETWEEN**

New Zealand Meat Workers & Related Trades Union Inc

**First Plaintiff**

**AND**

Roberta Kerewai Ratu and others

**Second Plaintiffs**

**AND**

AFFCO New Zealand Limited

**Defendant**

**Hearing:** (by telephone directions conference held on 2 June 2017 at 9.00 am)

**Appearances:** P Cranney, counsel for the plaintiffs  
P Wicks QC, counsel for the defendant

**Minute:** 2 June 2017

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**MINUTE TO THE PARTIES OF JUDGE B A CORKILL**

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1. Today I discussed with counsel their respective memoranda of 31 May 2017 and 1 June 2017.
2. With regard to the holiday pay entitlements (mentioned at paras 15 and 16 of Mr Cranney's memorandum), the following clarifications are required:
  - a) Whether each individual is to be paid eight per cent or 10 per cent holiday pay.
  - b) When the payments referred to in the spreadsheets would become payable.

3. Any judgment for each individual will need this information. Mr Cranney has asked that AFFCO expand their spreadsheet so as to provide for this information. Mr Wicks QC confirmed that an expanded spreadsheet could be made available within seven days.
4. The next issue relates to interest, as discussed in Mr Cranney's memorandum at paras 17 to 21, and in Mr Wicks memorandum at paras 11 and 12. There is a dispute between the parties as to how interest should be calculated, but it is agreed that this issue can be resolved on the papers under a timetable which I shall set out below.
5. The third issue relates to the placing of individuals into sequential "intakes". This issue is covered at paras 22 to 26 of Mr Cranney's memorandum and paras 13 to 15 of Mr Wicks' memorandum.
6. The relevant evidence which would be necessary to determine any issue relating to intakes is already before the Court.
7. Mr Cranney advised that there are three potential issues, the first two of which will require input from the Court at this stage. They are:
  - a) Whether any further findings as to intakes is now precluded having regard to principles of res judicata.
  - b) If not, how many intakes, and from what date, are there?
  - c) If, for the purposes of the quantum calculations, there is more than one intake, then which employees should be placed in the respective intakes?
8. Again, counsel are agreed that the first two issues can be resolved by the Court on the papers, under the below timetable. Counsel will then need to confer further once there is resolution of that issue.
9. The final matter I discussed with counsel related to the question of whether the Court could move to judgment, in respect of the 87 workers who are not affected by the intake argument, subject only to the outstanding issues as to holiday pay and interest.
10. Mr Cranney submitted that once those issues have been resolved, the Court could enter judgment in favour of those individuals; such judgment will lie in Court until further

order of the Court. The intention would be that the judgment would not formally issue to the point where it could be enforced, until there is resolution of any relevant outstanding issues in the appellate court.

11. Mr Wicks will take instructions as to whether such a step could be taken. I request Mr Wicks to clarify his instructions when filing his submissions.

12. The result is that submissions are to be filed and served on the issues relating to holiday pay (if any following consultation between the parties), interest as above, and intake issues as above, as follows:

- a) The Union will file and serve its submissions by **16 June 2017**.
- b) AFFCO will file and serve its submissions by **30 June 2017**.
- c) The Union will file and serve its submissions strictly in reply by **7 July 2017**.

B A Corkill  
Judge