

Radio NZ **Meatworkers win lockout fight with Affco** 6 October 2016

Meatworkers who spent five months locked out of work last year have won their battle with employer Affco, with the Court of Appeal agreeing the lockout was illegal.

Affco workers made the journey from Wairoa to Auckland for the hearing. Photo: RNZ / Kim Baker Wilson



Last November, [the Employment Court found](#) that the company locked the Wairoa workers out unlawfully and without the required notice, and that it undermined the collective bargaining process by sidelining the Meat Workers Union.

In its decision issued this morning, the Court of Appeal said it was obvious Affco's objective was to undermine or compromise the negotiations by isolating individual workers from the union and weakening the union's bargaining power.

"The company's purpose was to fragment the future bargaining strength of the workforce by isolating individual workers. By this means it took advantage of the inherent inequality of its relationship with the seasonal workers who were members of its captive workforce and to whom it owed existing duties to offer re-employment," it said.

The decision said laws against unlawful lockouts must be extended to seasonal workers, even when they were unemployed, if their contracts said they had the right to be offered re-employment.

Ruling a win for workers' rights - union

The Meat Workers Union said it hoped Affco would pay attention to the new court ruling.

The union's national secretary, Graham Cooke, said it was a win for workers' rights, and the people who were locked out should be paid for the time they were out of work.

"I have never experienced a company treat their workforce like this company is treating these workers.

"Their whole drive is to get everyone onto individual employment agreements that are completely inferior to the conditions of employment that they used to work on," Mr Cooke said.

Mr Cooke said he held little hope this ruling would make much difference because Affco had interpreted previous court rulings to its own liking.

"They hold those families to ransom, and that's the part I find very difficult to live with," he said.

"I just cannot see why an employer would exploit a workforce to this degree. It's not as though they're paid highly, it's not as though they're paid more than any other meatworker around New Zealand," he said.

Justin Kaimoana - the shed secretary at Wairoa - said the fight took a long time, but was worth it.

"We didn't make this stand just for us, just for now," he said. "We made it for our fathers, our grandfathers who stood up for the union back in the heyday of meatworkers and for the future. For our kids who decide they want to make a career out of being a meatworker."

Mr Kaimoana said the individual contracts Affco offered threatened to divide his small town, pitting the union members against the non-union members, while only the company would make money.

Affco denies trying to undermine union

Affco executive director Dane Gerrard said the company thought it was adhering to the Employment Relations Act throughout the negotiations.

Despite the Court of Appeal saying it was obvious Affco's objective was to undermine the union, Mr Gerrard said those accusations were unfounded.

He said Affco was the primary employer in many of the small towns where it has processing plants, and unless Affco could ensure its own survival - through more flexible contracts - it would not remain competitive, and would not be around to give those people work.

Mr Gerrard said he was meeting with his senior colleagues this afternoon to discuss the outcome of the case, including the matter of a possible final appeal.

Workers did not properly return until February

The dispute between the company and its workers dates back to December 2013, when a collective contract expired.

It came to a head late last year after 150 workers who refused to return on individual contracts were locked out for five months.

The Employment Court's November ruling ordered the company to allow the workers to return, but they discovered that they had not been re-employed on their original contracts.

The ongoing dispute meant the workers did not properly return to the Wairoa plant until this February.

The Court of Appeal said the Employment Court had erred on a separate question of law, relating to the termination of the workers' contracts at the end of each season.

The Employment Court had said Affco engaged the seasonal meatworkers on employment agreements of indefinite duration. That was found to be false on appeal.

But that matter had little bearing on the illegality of the lockout, the Court of Appeal said.

Court of Appeal upholds decision against Affco

Thursday, 06 October 2016 [The New Zealand Herald](#)

A decision by the Employment Court that Affco NZ unlawfully locked out seasonal meatworkers has been upheld by the Court of Appeal. Photo/file

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The Court of Appeal's judgment was released today and said the Employment Court's declaration that Affco unlawfully locked out seasonal meatworkers by refusing to engage them unless they

accepted new individual terms of employment which were inconsistent with existing rights under an expired collective agreement.

The New Zealand Meat Workers and Related Trades Union claimed Affco unlawfully locked out meatworkers from processing plants in the central and upper North Island. The company and workers had been parties to a collective employment agreement which expired on December 31, 2013, but continued in force for a further year.

Before the 2015/2016 season began, Affco told the workers it would not re-engage them unless they accepted terms and condition set out in new individual agreements. The union alleged the company's actions were taken for a coercive purpose to undermine ongoing negotiations toward a new collective agreement.

The Employment Court declared that Affco's actions amounted to an unlawful lockout of its workers and found the company and meatworkers were in a continuous employment relationship which lasted throughout the off season.

The collective agreement created ongoing and enforceable rights and duties, including redundancy rights and an obligation on Affco to re-employ seasonal workers according to seniority.

The new terms offered by Affco sought to abolish the significance of seniority.

The Court of Appeal said the purpose of Affco's actions was to undermine the collective bargaining regime designed to redress the inherent inequality of power faced by workers in this situation.

The Court of Appeal concluded that the unlawful lockout provisions must extend to protect former employees who have contractual rights to an offer of re-employment from an employer which is refusing to engage them unless they accept new terms inconsistent with their existing rights.

The New Zealand Herald

Affco loses bid to overturn ruling on unlawful lockouts

By Paul McBeth 11:50 AM Thursday Oct 6, 2016



Justices Ellen France, Rhys Harrison and Kit Toogood today turned down the meat processor's application to overturn an Employment Court ruling. Photo / John Borren

Affco New Zealand lost its bid to throw out a ruling that it unlawfully locked out meat workers when collective bargaining was taking place.

In the Court of Appeal in Wellington, Justices Ellen France, Rhys Harrison and Kit Toogood today turned down the meat processor's application to overturn an Employment Court ruling, saying it was "obvious that Affco's objective was to undermine or compromise the parallel process of negotiating

a collective agreement which was underway with the union" in what amounted to an unlawful lockout.

"The company's purpose was to fragment the future bargaining strength of the workforce by isolating individual workers," the judgment said. "By this means it took advantage of the inherent inequality of its relationship with the seasonal workers who were members of its captive workforce and to whom it owed existing duties to offer re-employment."

The appeal was part of a series of ongoing legal clashes between Affco and the Meatworkers Union, which has achieved a measure of success in the Employment Court, and was the first under the government's new employment law to apply for an end to bargaining under amendments to the Employment Relations Act which lets firms opt out of multi-employer agreements and removed the duty under good faith bargaining for both sides to reach an agreement.

While it lost the appeal, Affco had a degree of success in challenging a finding in the Employment Court, with the appeal bench agreeing that Affco did not engage seasonal meatworkers on contracts of an indefinite duration.

Because of that success, the judges deemed each party should bear their own costs and made no orders.

The original case covered workers at Affco's Rangiora, Invercargill, and Manawatu plants but the company had accepted any

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Bay of Plenty Times

Court of Appeal upholds decision against Affco 11:52 AM Thursday Oct 6, 2016 [Add a comment](#)



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The original case covered workers at Affco's Rangiora, Imlay, and Manawatu plants but the company had accepted any finding would cover all eight of its North Island plants.

(BusinessDesk)