

MEDIA ADVISORY

EMPLOYMENT COURT JUDGMENT NATIONAL DISTRIBUTION UNION V GENERAL DISTRIBUTORS LTD

The Employment Court has issued the first judgment addressing two new features of employment legislation, bargaining fees payable to unions by employees who are not members of them, and prohibitions on “passing on” collective terms and conditions to non-union employees.

The National Distribution Union issued proceedings for declarations, penalties and damages against General Distributors Ltd owned by Progressive Enterprises which employs almost 18,000 people in Foodtown, Countdown and Woolworths Supermarkets.

A full Bench of the Employment Court (Chief Judge GL Colgan and Judges BS Travis and AA Couch) have decided that the employer did not pass on collectively negotiated terms and conditions of employment to its non-union employees in breach of the new law. The Judges have concluded that GDL did not do anything to mislead or deceive, or that was likely to mislead or deceive, the union in breach of s4 (good faith) of the Employment Relations Act 2000. In particular, the Court has found that wage increases offered to non-union employees shortly after the settlement with the union of a collective employment agreement were not the same or substantially the same as the terms and conditions in the collective. The Court also concluded that even if there had been a passing on of the collective terms and conditions, this was not done with the intention by GDL of undermining the collective bargaining and did not have the effect of undermining it.

Finally, the Court determined that the wage increase offers made by GDL to non-union employees did not breach the company’s collective agreement with the union.

The foregoing summary of the Court’s 52-page judgment that can be read in full on the Court’s website (www.justice.govt.nz/employment/judgments/default.asp) is not a substitute for the terms of the written judgment and is intended only as a very brief summary of its outcome.

For further information please contact the National Manager of the Employment Court, Heather Tavassoli (ph: 04 473 9800, fax: 04 498 9980).