

IN THE COURT OF APPEAL OF NEW ZEALAND

**CA628/2010
[2010] NZCA 532**

BETWEEN OCS LIMITED
 Applicant

AND SERVICE AND FOOD WORKERS
 UNION NGA RINGA TOTA INC
 First Respondent

AND THE PERSONS LISTED IN SCHEDULE
 A OF THE APPLICATION
 Second Respondents

Court: Glazebrook, Arnold and Harrison JJ

Counsel: P McBride and G Ballara for Applicant
 P Cranney for Respondent
 S A Dhyrberg for Intervener

Judgment: 22 November 2010 at 4pm
(on the papers)

JUDGMENT OF THE COURT

A Leave to appeal and to cross-appeal is granted.

B Costs are reserved.

REASONS OF THE COURT

(Given by Glazebrook J)

[1] OCS Ltd seeks leave to appeal against the decision of the Employment Court in *Service and Food Workers Union Nga Ringa Tota Inc v OCS Ltd*¹ on the following questions:

- (a) Did the Employment Court err in law in determining that s69N(1)(c)(i) and (ii) of the Employment Relations Act 2000 (the Act) provided the second respondents with two, entirely independent, points of entry to bargaining?
- (b) Did the Employment Court err in law in determining that s 69N(1)(c)(i) of the Act allowed the Second Respondents to bargain for redundancy entitlements under the Employment Court's construction of the multi-employer collective employment agreement?
- (c) Did the Employment Court err in law in determining that the redundant second respondents were entitled to ongoing employment by the applicant, pending bargaining and determination of issues of redundancy entitlement by the Employment Relations Authority?

[2] The application for leave to cross-appeal deals with the following question: Does s 69N, and in particular s 69NC(1)(c)(i), of the Act properly construed create an entitlement to monetary redundancy compensation?

[3] The applications for leave are not opposed. The Court is satisfied that these are issues of law of general and public importance.

[4] Leave is granted accordingly. Costs are reserved.

Solicitors:
McBride Davenport James, Wellington for Applicant
Oakley Moran, Wellington for Respondents

¹ *Service and Food Workers Union Nga Ringa Tota Inc v OCS Ltd* [2010] NZEMPC 113.