



COURT OF APPEAL OF NEW ZEALAND

NEW ZEALAND FIRE SERVICE COMMISSION

and

NEW ZEALAND PROFESSIONAL FIREFIGHTERS UNION

(CA270/05)

CASE SUMMARY

This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at Judicial Decisions of Public Interest

<http://www.courtsofnz.govt.nz/from/decisions/judgments.html>

The Court of Appeal today released its decision on an appeal by the New Zealand Fire Service Commission against a decision of the Employment Court, which had held that the commission's collective employment agreement with the New Zealand Professional Firefighters Union did not comply with the Holidays Act 2003.

The Court of Appeal, by a majority (President William Young and Justice Chambers), has allowed the commission's appeal. It has declared that the current employment arrangements between the commission and its firefighters comply with the Holidays Act. Everyone accepts that some firefighters have to work on public holidays. In the majority's opinion, the commission's response to that necessity complies with the new statutory holidays regime. Any firefighter rostered to work on a public holiday receives double time for so doing. As well, he or she also receives alternative days (or days in lieu) within a 16 day leave period at the end of each 160 day period of the firefighters' roster.

Justice O'Regan, dissenting, agreed with the Employment Court. In his opinion, the collective employment agreement does not comply with either s 57(1)(b) of the Holidays Act, because the alternative day is not a day on which the employee would otherwise be working, or s 57(1)(a), because the actual day on which the alternative holiday is to be taken has not been specifically agreed by the employer and the employee.