UNDER THE EMPLOYMENT RELATIONS ACT 2000
BEFORE THE EMPLOYMENT RELATIONS AUTHORITY
AT WELLINGTON

File No.

BETWEEN	**JOHN DEVEREUX** C/- PO Box 241, Wellington. **First Applicant**
AND	**NEW ZEALAND PROFESSIONAL FIREFIGHTERS UNION** **Second Applicant**
A N D	**NEW ZEALAND FIRE SERVICE COMMISSION** of Level 9, 80 The Terrace, Wellington Respondent

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STATEMENT OF PROBLEM

Dated 13 March 2012

PRESENTED FOR FILING BY: **OAKLEY MORAN**
Solicitors, Wellington.
P.O. Box 241 DX SP20003
Phone: (04) 472.3055
Fax: (04) 472.6657
Person Acting: Peter Cranney

To: The Employment Relations Authority

And to: The Respondent

1. The problem the applicants wish the Authority to resolve is a compliance order.

2. The facts giving rise to the problem are:

2.1. The respondent is a statutory body.

2.2. The first applicant is an employee of the respondent and is a member of the second applicant. He sues on behalf of all union members.

2.3. The second applicant is a union.

2.4. The first applicant's terms and conditions of employment are contained in an expired collective agreement.

2.5. On 6 March 2012 the second applicant gave notice of a lawful strike including inter alia a ban on rostering duties.

2.6. On 8 March 2012 the respondent retaliated by issuing a notice stating it would cease to allow: alternative holidays, service holidays, pro-rata leave, time banked shifts, long service leave, sporting and cultural leave and tuition leave.

2.7. The notice referred to the types of leave banned as "discretionary leave" but in fact most of the types of leave identified (other than sporting, cultural and tuition leave) are contractual entitlements and/or Holidays Act 2003 entitlements.

2.8. The respondent's action is a breach of contract and a breach of the Holidays Act 2003.

3. The applicants seek the following remedies:

   3.1. A compliance order requiring compliance with the expired collective agreement, specifically an order requiring the respondent to allow the first applicant and those like him to take leave in the normal way.

   3.2. A compliance order requiring the respondent to comply with its obligation to grant alternative holidays for time worked on public holidays in accordance with the Holidays Act 2003.

   3.3. Costs.

4. The Applicant attaches the following documents:

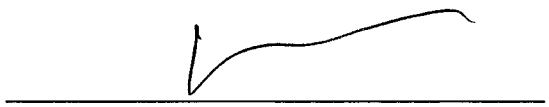
   4.1. National Notice 005/2012.

   4.2. File note.

   4.3. A copy of the employment agreement (extract).

5. The parties have not attended mediation.

6. This application is accompanied by the filing fee.



Peter Cranney
Solicitor for Applicants
13 March 2012

THIS Statement of Problem is filed by Peter Cranney, Solicitor for the abovenamed applicants of the firm of Oakley Moran. The address for

service is 1st Floor, Leaders Building, 15 Brandon Street, Wellington.

DOCUMENTS for service on the abovenamed applicants may be left at that address for service or may be -

(a) Posted to the solicitor at P.O. Box 241, Wellington; or

(b) Left for the solicitor at a document exchange for direction to DX SP20003, Wellington; or

(c) Transmitted to the solicitor by facsimile to (04) 472.6657.