

HOLIDAYS ACT DISPUTE

On Thursday 10 June the Union and the Fire Service were in mediation with the Employment Authority regarding the ongoing employment relationship dispute with respect to Days in Lieu.

The purpose of mediation was to attempt to get agreement between the parties as to what entitlement Firefighters have to Days in Lieu since the introduction of the new Act.

The Fire Service was represented by Vincent Arbuckle, Stephen Fraser (Human Resources Department) and Jeff Davenport (Legal). The Union was represented by Mike McEnaney, Derek Best and Athol Conway (National Committee), Peter Cranney and Anthea Connor (Union Lawyers).

Essentially the Fire Service was not prepared to accept the Union's position that any Firefighter who works on a statutory holiday is entitled to an alternative holiday on a day that would otherwise be a working day. The Fire Service based much of their opposition to this on the outcome of the *Small v New Zealand Fire Service* [1995] Days in Lieu decision.

Fire Service Management made it clear that regardless of the validity of the *Small* decision, that they see that as the determining document and as such are prepared to use that as their basis of a rejection of the Union's position.

In addition to this they were also stating that in their opinion the introduction of the Holidays Act 2003 had not changed or given any new entitlements to Firefighters in regard to Days in Lieu.

An issue of concern to the Union was that the Fire Service has raised that they may wish to review their interpretation of what a day is that attracts a Day in Lieu. Their suggestion was, essentially, they wish to disregard the current interpretation whereby for the purposes of statutory holidays, the day starts at midnight as opposed to 0800 hours the following morning. The Fire Service has raised the 0800 hours as a time that they may consider denotes the commencement of a day.

Obviously this would have implications in terms of members' entitlement to a Day in Lieu when working a call-back shift on the night preceding a statutory holiday. Currently a person who is on call-back on a night preceding a statutory holiday will generally be entitled to a Day in Lieu. A new interpretation along these lines would obviously remove this entitlement.

The Union wishes to have the matter proceeded to the Employment Court in an effort to have an early determination on this matter. However, the Fire Service would not agree to this and want to place an intermediate step in the process and that is to have a further Hearing before the Employment Authority. Obviously this will delay the process and will place additional costs upon the Union. The employer has stated that it is their intention to have the matter struck out by the Authority as a result of the *Small* decision.

Members will be updated as the case proceeds.

N.Z. PROFESSIONAL FIREFIGHTERS UNION