

## Chronicle: February 2009 – May 2009

### February 2009

It was reported in the *Dominion Post* that changes to the Employment Relations Act and in particular the Employment Relations (Probationary Periods) Amendment Act would come into force 1 March 2009. The Department of Labour's Deputy Secretary, Workplace, Craig Armitage also promoted the employment agreement builder tool on its website in which he stated that: "... the employment agreement builder is designed to take out the hassle, and make it an easy and straightforward job that will take minutes not hours of time...".

The *NZ Herald* reported the announcement of a Job/Employment Summit to take place in late February. Chaired by NZX chief executive Mark Weldon, the purpose of the summit was to come up with a clear and practical plan to minimise job losses during the recession. In a general discussion on the current economic climate and its impact, the article noted that it was unlikely that companies would give generous wage increases with some large employers announcing that their senior executives would not be receiving any increases. The Government adopted the same stance with the Prime Minister calling for a zero increase in MP salaries and urging unions to moderate their pay claims. The article argued that while the role of the summit was to keep as many people as possible employed, the real challenge was to improve productivity to enable companies and their employees to weather the downturn and position them to take advantage when conditions improve. It concluded that a bigger step would be the creation of a common vision for New Zealand by the Government, employers and unions.

However, Job/Employment Summit was not without its cynics as reported in the *Waikato Times* in which one observer noted that the summit would be all talk and no action. While it was agreed that it was good that the Government was taking action, the observer was not sure what would come out of it, particularly as business leaders in the Waikato had not been invited. Notwithstanding, Port of Tauranga chief executive Mark Cairns saw the summit as an opportunity for collaboration and to reduce the negative impact of the global recession. Also a number of Waikato business leaders had suggestions for the Government to ensure the success of the summit.

Some of the more sensational employment cases before the Employment Relations Authority were also highlighted in the February media. In particular, the case of *Davis v Toolking Plus Limited* was reported in the *Press* illustrating that the act of telling one's employer to "stick the job" in the heat of the moment may not necessarily mean that the employee actually wanted to resign. The dispute was between Mr and Mrs Davis, who managed the Hamilton shop for Toolking Plus and lived on the premises, and Mr Edge, who was one of the directors of the company. Mr Edge, who had looked after the shop while Mr and Mrs Davis were away, was not happy with the state in which he found the shop. When Mr and Mrs Davis returned from their annual leave Mr Edge raised his concerns with them and an argument ensued in which Mr Davis told Mr Edge to "stick his job". The next day Mr Edge told Mr and Mrs Davis for the keys to the shop and told them to vacate the flat above the shop. The ERA ruled that while an employer was entitled to rely on a clear resignation, care was

needed when words were spoken as "...part of an emotional outburst in the heat of the moment". A fair and reasonable employer would have realised the Davis's had not intended to resign immediately or to vacate their flat above the shop straight away and would have approached them the next day to clarify their intentions. Mr Davis was awarded \$8,450 for lost earnings and \$6,000 compensation for distress, but this was reduced by 30 per cent because of his remark and his failure to talk about the exchange.

The *Waikato Times* reported that in spite of the fact that a Tairua restaurant proprietor dismissed her waiter after he sent her flying into a door, she was ordered by the Employment Relations Authority to pay her assailant \$500. The former waiter and barman was successful with his claim of unjustified dismissal against his employer despite being found guilty of serious misconduct with his "unprovoked, and unnecessary" actions in pushing past his employer. The employer immediately dismissed the youth and complained to police, but did not proceed with assault charges. However the ERA ruled there was a complete absence of procedural fairness in the dismissal. The youth was dismissed by a text message and a letter confirming the dismissal was then delivered to him that evening. The ERA ruled that the youth had been unjustifiably dismissed and the employer should have written to him, giving notice of a meeting, and setting out the allegations and potential consequences if serious misconduct was proven.

The *Dominion Post* reported on a drawn out 13 year old 'legal stoush'. One of the Court of Appeal judges labelled the delays in the case as scandalous and added that it rivalled "a tale in a Charles Dickens classic". The case involved the former probation officer who sued the Department of Corrections for work induced stress. After a Court of Appeal hearing Justice Bruce Robertson said it was "scandalous" there was still no resolution to the case. He added that "*Gilbert v Attorney-General* must at least be entering the race to compete with *Jarndyce v Jarndyce*," referring to the Dickens novel Bleak House. Mr Gilbert resigned from the Probation Service at the age of 51, on medical grounds saying the job had cost him his mental and physical health. He sued the department for breaching his employment contract and forcing him to retire after a 21-year career. He claimed that he had suffered stress-related chest pains and depression after being overloaded with difficult cases involving sex offenders and violent criminals, and that Corrections' management was grossly deficient. In 2000, the Employment Court awarded him \$750,000 for lost salary, humiliation and distress, loss of career and exemplary damages. The Court of Appeal later reduced the payout by \$100,000. Since then the case has clogged both courts with appeals and cross-appeals. Mr Gilbert said his legal fees were already more than \$650,000 but he was not going to give up.

In another high profile personal grievance case reported in the *Dominion Post*, it was revealed that the Director General of Conservation secretly taped a phone conversation with a lawyer who he later dismissed. In issuing an apology Mr Al Morrison said he understood how "alarming and disconcerting" it could have been for lawyer Sue Grey to learn he taped their conversation without her knowledge. The revelation came out during an investigation by the ERA into a claim of unfair dismissal when Ms Grey was dismissed for an alleged conflict of interest. Ms Grey also alleged that the Solicitor General, Dr Collins had attempted to pervert the course of justice by informing her employer, the Director General of Conservation of her

involvement in a legal case – the Saxmere Case v Wool Board – in which she and Dr Collins were representing opposing parties. In response to Dr Collin’s alleged telephone call to the Director General of Conservation, Ms Grey’s partner laid a complaint with the police against Dr Collins. In a later article in the *Nelson Mail* Ms Grey was told by ERA Paul Montgomery that she faced a high threshold to prove her case. In an unexpected twist the Attorney General made an offer that if Ms Grey withdrew her allegations he would not pursue her for legal costs. This offer was accepted but she still sought compensation and her job back with the Department of Conservation.

In a sign of tough economic times the *Nelson Mail* reported that between 900 and 1000 applications were received for two permanent truck driver positions that Nelson transport company Brian Stanaway Roding advertised on Trade Me Jobs. The company offered “competitive pay” for two experienced drivers. According to Mr Stanaway, the applications came from all around, including one from Iraq but added that he was not surprised by the response.

Also in the Tasman Nelson region concerns were again raised in the Marlborough Express about the hazardous exposure of methyl bromide used to fumigate exported wood products. Methyl bromide is an odourless, colourless gas and is used to kill insects in imported and exported goods. It is also extremely toxic to humans and has been linked to motor neuron disease. Health issues associated with methyl bromide gas in New Zealand first came to the public attention in Nelson, the first port town to use the chemical, as a result of the concerns raised by the widows of six port workers who died from motor neuron disease and who had a rate 25 per cent higher than international averages. The Marlborough Express reported the announcement by the Port Marlborough that methyl bromide emissions at Shakespeare Bay will have to be 80 per cent less than legally allowed if plans to fumigate export logs go ahead. The log exporter Zindia was scheduled to fumigate the hold of a Hong Kong-registered ship Kang Shen two days after the Port Marlborough’s announcement. Port chairman Ed Johnson said the directors’ decision was based on careful consideration of environmental, community and commercial aspects.

### **March 2009**

At the conclusion of the February Job Summit a number of reports discussed the main features of the summit and its success or otherwise. The *Independent Financial Review* reported the view of Roger Kerr, executive directive of the Business Roundtable that “...preserving jobs in a recession is all about removing barriers to hiring”. Kerr and several other participants were dismayed to be told labour market regulation was “off the agenda as a sop to the unions”. Kerr warned that outcomes from the summit would be “limited” unless or until the Government implements labour-market reform. The article claimed that this was the price the Government had to pay to get union leaders to attend the summit table. There was to be no discussion of the two labour-market issues many employers regarded as vital. These were the review of the Holidays Act and repealing or amending the Employment Relations Act. Kerr added that business confidence is important when it comes to taking on new staff and governments should make the decision to hire somebody as easy as possible.

He claimed that the 90-day probationary period for new employees was a godsend to jobseekers.

As a postscript to the jobs summit The *Dominion Post* reported that the Government was close to reaching a deal with unions and employers over a nine-day fortnight for some employees. One of the main recommendations from the job summit to prevent redundancies was to ask workers to take one day off a fortnight. The proposal appeared to stall after the Government resisted helping to fund the 10th day, instead offering to pay for training or education. Prime Minister John Key said that while the Government would not fund the 10<sup>th</sup> day, it would be possible for the Crown to consider some allowance for workers. Business New Zealand spokesperson on employment relations policy, Paul Mackay, said employers were flexible about how a deal was reached, but the bottom line had to be reduced costs for the employer.

The *Southland Times* and the *Dominion Post* reported that provincial airports might be forced to shut down for 30 minutes a day to allow air traffic controllers a meal break under new workplace laws. The Airways Corporation said Invercargill, Gisborne and New Plymouth airports, which all operate single-staff control towers, might have to close between scheduled passenger flights as a last resort to meet changes made under the Employment Relations (Breaks and Infant Feeding) Amendment Act, passed in September 2008. Workplaces must provide two 10-minute rests and one half-hour meal break during each eight-hour shift. Workers and their employers must agree on times for breaks or if unable to agree the breaks must be taken at specific times. Corporation air navigation services group manager David Rollo said the state-owned enterprise, responsible for air traffic control, was working with the Airline Pilots Association, which represents controllers, to agree how the law should be implemented. Although the controllers already had regular breaks, these were not formalised in one-person towers and there was concern about the impact of the meal provisions. Through her spokesman, Labour Minister Kate Wilkinson commented that there was flexibility in the Act, and the Government would monitor its application to ensure common sense was applied.

Elsewhere the *Nelson Mail* reported on a planned rally being organised by the Service and Food Workers Union to be held in Nelson to show support for workers who are facing the prospect of losing their job, and to warn employers not to use the economic crisis as an excuse to cut wages, conditions and jobs. The planned rally was in the wake of news that Nelson employers Sealord and Nelson Pine Industries were planning to shed 240 jobs.

The announcement of a review of the Holidays Act generated additional media coverage. The *Manawatu Standard* reported that the Government plan to allow workers to trade their fourth week of annual leave for cash had trade unions and the Labour Party “in a lather”. Prime Minister John Key said any decision would have to be made in agreement with employers and would not be feasible for every organisation but Opposition leader Phil Goff and union leaders claimed that workers will be pressured into making the swap by their employer or for financial reasons. It was also claimed that the proposed law change would undermine people's work/life balance, emphasising the importance for working parents to have quality time with their children.

Fresh concerns were raised when it was revealed that the review would consider extending provisions allowing employers and employees to agree to transfer any or all of the 11 statutory holidays to normal working days. Current provisions are limited to workers on overnight shifts which cross from a normal working day to a public holiday. Minister of Labour Kate Wilkinson said she wanted the review to explore whether the provision should be extended to other workers, such as those who wanted to observe religious festivals other than Christmas and Easter. Council of Trade Unions president Helen Kelly said the fact that the matter would be reviewed indicated that changing the law was on the Government's agenda. She added that there were concerns that widening the scope for transfers would lead to employers who wanted staff to work on public holidays pressuring them to transfer the statutory requirements to another day when they did not want them to work.

The *Sunday Star Times* reported that a “stoush” had broken out on the popular TV drama *Outrageous Fortune* following attempts by the actors' union to get a better deal for cast members. The chief executive of South Pacific Pictures the television production company that made the show accused Actor's Equity of trying to muscle in on negotiations. The union attempted to meet the show's producers, to negotiate standard, unionised contracts for the cast. The company refused to meet the union, because it had no status in negotiations and all cast members had signed contracts appointing agents to represent them. The article claimed that the actors were running so scared that they “gagged” the union from speaking to the media about the issue.

The *NZ Herald* reported that Air New Zealand had begun recruiting flight attendants in bid to keep flights operating when it's Trans Tasman and Pacific Islands cabin crews go on strike. Large advertisements in weekend newspapers sought flight attendants on the routes where 250 existing staff had given notice of a four-day strike over the Easter break. The Engineering, Printing and Manufacturing Union, representing the striking workers threatened to seek a court injunction if it did not get assurances that the new staff would not be used as strike breakers. Union secretary Andrew Little said the action appeared to be illegal under section 97 of the Employment Relations Act 2000, which bans recruitment of strike-breakers except for health or safety reasons.

The *Dominion Post* reported that a claim of age discrimination by Air New Zealand against a senior pilot because he turned 60 was heard in the Supreme Court. The 747 pilot with an added role of flight instructor was demoted to first officer because being aged under 60 was a requirement of his job. The pilot was appealing against a Court of Appeal decision that said age discrimination was not the reason he lost rank and was shifted to a lower paying job. His lawyer told the Supreme Court that there should be no exception for Air New Zealand under age discrimination law and that the pilot was discriminated against through his demotion and subjected to detriment. The pilot had wanted to reach an agreement with Air New Zealand in which he could do other jobs in line with being a flight instructor, but that had not happened. The court reserved its decision.

The theme of recession and cutbacks continued with an article in the *Dominion Post* warning that employers looking to cut staff pay and benefits in order to improve their bottom line would come out of the recession worse off. However, employers who continued to invest in and value key employees would continue to be rewarded for

their investment and be positioned to make the most of the inevitable recovery. The article said that short term employers would use the times to take advantage of staff, by increasing demands and / or reducing benefits. This would leave them without their desired staff when times became good as these people would have long memories about the way they were treated and would probably leave.

Another article in the *Dominion Post* warned that redundancies may be bad for employees, but they can also be terrible for the organisation. The article quoted Kevin Wheeler, founder of The Future of Talent Institute saying that getting rid of staff is the 'atomic bomb' of choices available to an organisation during a downturn. Wheeler claimed that redundancies can result in a loss of institutional knowledge, shredded staff morale and affect corporate productivity, both in the short and long term. He also suggests corporate HR practitioners should apply the environmental mantra of "re-train, re-use, recycle and refresh" to the workforce. The advantage for an organisation in retaining most of its staff is that over a period of time the organisation ends up with a more agile workforce. He quoted examples of his favourite firms such as IBM who try to maintain their workforce during difficult times. IBM had a core workforce that they maintain pretty rigorously and they tend to lay off or let go only those contractors they use to fill those peak demand times. He said that Toyota had also done a very good job of right-sizing the workforce, and they had a policy of when you're not making cars, you're being trained. The article concluded that one of the biggest challenges is smoothing out the peaks and troughs in the job market, and in the supply of the talent that is available.

#### **April 2009**

The *NZ Herald* reported that migrant workers, advocates and union representatives were due to meet to discuss a response to the Government's plan to cut the number of migrant work permits. Meeting organiser Dennis Maga was quoted as saying that migrant workers on temporary permits were "worried sick" about their futures, and wanted to know if the unions would act to protect their rights during the recession. He claimed that politicians' calls for migrant workers to be laid off first, revocation of temporary visas by Immigration NZ not only contravened the Employment Relations Act, but also the Human Rights Act. The meeting came at a time when the economic downturn raised the issue of migrant workers on temporary permits. Immigration NZ investigated a case where 28 New Plymouth workers were made redundant in October 2008, while Filipino welders kept their jobs and had their temporary permits renewed. Immigration Minister Jonathan Coleman said that he expected the Department of Labour to ensure that fewer migrants entered New Zealand on temporary permits during the recession. Mr Coleman said there would not be new temporary migrants coming in as no new permits would be issued, and temporary permit holders would not have their permits renewed. A record 188,000 temporary work applications were approved in the 2007-2008 year, an increase of 13 per cent from the year before.

The *Press* reported that four Air New Zealand crew members refused to take off novelty wigs which led to the grounding of a Christchurch-Sydney flight and stranding about 60 passengers overnight. The airline last night suspended the four in what the Engineering, Printing and Manufacturing Union (EPMU) said was a move to 'up the ante' in their industrial dispute. The passengers had cleared Customs and

were waiting in the departure lounge when they were told of a delay. Ten minutes later they were told their flight was cancelled because some cabin crew were inappropriately dressed. EPMU national secretary Andrew Little said the staff involved refused to remove their wigs, and that was what caused them to be suspended. Little said he was mystified why Air New Zealand had suddenly suspended the crew as the non compliance protest had been running for several days. The union withdrew a notice that members intended to strike over Easter, but two non-compliance notices which included not to work on standby and not to wear company uniform remained in place.

The *Southland Times* reported that employees of Clifton Wool Scourers were threatening to picket the plant after it closed until they receive what they saw was a fair redundancy package. The plant, which has about 40 employees, was to close on 16 April. Meat Workers Union regional secretary Gary Davis said the plant's 30 union members would get two weeks' pay for the first year's service plus a week's pay for every five years' service thereafter. The deal was what the union negotiated with in 2006 but was signed on the understanding there would be no redundancies at the plant in coming years. An employee said that some of the Clifton workers had other jobs to go to in Southland when the plant closed but most did not.

The *NZ Herald* reported that lecturers at the Manukau Institute of Technology (MIT) were planning 'short sharp lightning strikes' in protest at their workloads. The lecturers claimed their workloads had been increased, and they gave notice of industrial action. Tertiary Education Union organiser Chan Dixon said no decision had been made on what days and times the strikes would happen, but they were likely to last about a fortnight. She said MIT had among the highest workloads of any polytechnics. The level had become unrealistic after administrative staff were made redundant last year an increase in student numbers because of the economic climate.

The *Dominion Post* reported that Wellington property tycoons the Chow brothers were ordered to pay a former hotel manager more than \$100,000 after a long-running employment dispute. The Employment Court found that James Jesudhass was unfairly dismissed while in mediation over his job at the Just Hotel four years previously. In a written decision, the court found John Chow had asked Mr Jesudhass to train his sister to be the assistant general manager, despite her having no hotel experience. Mr Jesudhass became concerned at Ms Chow's management style, which he said was causing stress. The Chows hired migrant workers who could not speak English, and students without work permits, the decision said. In April 2005, Mr Jesudhass was told that Sarah Dickens, Mr Chow's personal assistant, was sitting in reception and seemed to be monitoring staff. He told her she should have spoken to him first. Soon after, Mr Jesudhass and the Chows went into mediation and he was suspended by John Chow on May 5, 2005 and told to leave the hotel immediately. He was dismissed two weeks later, with Mr Chow citing unsatisfactory performance, failing to follow requests and refusal to attend meetings. Judge Barrie Travis found the defendant, Just Hotel Ltd, had failed to show it had been a fair and reasonable employer. Judge Travis stated that "...the defendant's actions were both procedurally unfair and substantively unjustified". He awarded Mr Jesudhass \$119,237, including \$68,000 in lost wages, \$20,000 for loss of a car and \$10,000 for distress.

Another employment dispute which gained high profile concerned the well known climate scientist Dr Jim Salinger who was dismissed by the National Institute of Water and Atmospheric Research (NIWA) for 'serious misconduct' for talking to the news media without permission. In a *Dominion Post* article Dr Salinger said he intended to take legal action for what he called unjustified dismissal saying that he was not being "...dismissed for my science – that can't be faulted – I've been essentially sacked for not following protocol". The *Press* reported later in the month that Dr Salinger had taken a second personal grievance against NIWA over the way he was dealt with when he was still an employee. The issue became politicised with Labour and Green politicians claiming that the dismissal had unnerved scientists who were thinking twice about whether they could talk about their research. Research, Science and Technology Minister Wayne Mapp was reported as saying that the existing practices of Crown Research Institutes allowing scientists to speak out would continue.

The *Dominion Post* reported a senior lecturer claiming of a "culture of bullying" by some members of management at Victoria University's faculty of education. Dr Joanna Kidman said some staff had sought medical treatment as a result. Colleagues also spoke of students being bullied, and feared they could end up using similar tactics in school classrooms after completing the course. The University acknowledged the faculty had been through a difficult period since it announced in December 2008 that 18 jobs would be disestablished but Human Resources Director, Annemarie de Castro rejected the bullying allegations.

A study by health insurer Southern Cross reported in the *Dominion Post* found that sick workers are costing employers more than \$2 billion a year. The study found that the biggest cost associated with workers taking sick leave was not the time off work, but the lost productivity of staff who turned up to work while sick. The average time off work from illness was 4.2 days a year, while the average number of days on which staff were at work and too sick to be productive was 11.1 days. The study reasoned that if a sick employee was half as productive as they normally would be, the cost to employers for a staff member on the average wage would be around \$900. That compared with an annual sick days cost of about \$700 per employee. For most businesses, staff illness was an invisible cost compared with the expense of offering preventive health benefits, such as flu vaccinations or health insurance.

A Wellington supermarket's English-only policy was labelled a disgrace by a leading employment lawyer, but the store's owner claimed that the matter was blown out of proportion. It was revealed that the Thorndon New World told employees they could receive warnings for speaking foreign languages on the job. Signs, which were taken down after media uncovered the policy, warned that talking in other languages could make customers and other staff 'feel uncomfortable'. Owner Brian Drake said the signs had been put up by a junior manager and he would have worded them differently. Language itself is not a prohibited ground, but employment law expert Peter Cullen said it could create indirect discrimination against people of different national origins. Mr Cullen said he would be surprised if any employers adopted such a policy, particularly in multicultural Wellington stating that: "We're not dealing with the Taihape general store in 1932".



This event was soon followed by a *Dominion Post* report of bus drivers working for Wellington Bus Company Mana Coach Services were forbidden in their company handbook from speaking languages other than English, even while in the staffroom. Tramways union secretary Kevin O'Sullivan contacted the company in February 2009 about the perceived breach of human rights law, and was told "when in Rome, one does as the Romans do". Mana chief executive officer Geoff Norman wrote to the union saying "...the use of a language in front of others who do not understand what is being said, we consider to be the height of bad manners". However, the Maori Party co-leader Tariana Turia disagreed stating that the company's actions were outrageous and that it needed to realise that "...language is the cornerstone of any culture and not giving their staff the right to express themselves to another staff member in a language they both understand is depriving them of their identity".

The *Dominion Post* also reported on a study that found that companies that tolerate a reasonable amount of personal internet use have happier workers. PhD student Andrea Polzer-Debruyne from Massey University, the author of the study which surveyed more than 300 people about work internet habits said that "...[u]sing the internet reduces stress for employees, giving them mini-breaks that can make them more productive".

### May 2009

The *Nelson Mail* reported on Labour MP Darien Fenton's private members' Bill providing minimum notice and redundancy compensation for people who lose their jobs. Ms Fenton stated that the Employment Relations (Statutory Minimum Redundancy Entitlements) Amendment Bill was based on the recommendations of a report by the Public Advisory Group on Restructuring and Redundancy. She said that there were "tens of thousands" of people who had no redundancy entitlement in collective agreements.

The *Dominion Post* reported that an employee had laid a complaint with the Employment Relations Authority claiming his employer and contractor, Garry Maxwell-Smith, had underpaid him and other grape pickers in Wairarapa and had also failed to provide a safe workplace. The Labour Department was investigating Garry Maxwell-Smith after Work and Income revealed 20 of its clients had been underpaid or received no wages. Mr Maxwell-Smith, however, disagreed with the allegations, saying those workers who complained are people who "can't make it". He continued that only a couple of pickers were underpaid and some had refused to provide tax details. He was quoted as saying that: "...they were "cunning little monkeys...They know that it's going to take roughly three months for Winz, the court system . . . and child support to catch up with them". He argued that the workers had either misunderstood the contract rates he switched them to or failed to show up for work.

The *Press* reported on concerns from members of the Corrections Association that prison inmates were being locked in their cells earlier and for longer under new cost-cutting measures. President Bevan Hanlon said the longer lockdown period had resulted in escalating tensions, with a mini-riot breaking out at Ngawha prison in the North Island. The association planned to file an injunction through the Employment Relations Authority on the basis that the Department failed to consult them and had

ignored their concerns over the roster change. He said the safety of prison officers was a major concern, with angry prisoners now locked down for about five hours longer under the new system.

All of the major daily papers reported on the strike by employees employed by the Air New Zealand subsidiary airline Zeal. The *NZ Herald* reported that the union representing cabin crew launched an 'aggressive campaign' against Air New Zealand as the four-day strike got under way. Full-page advertisements appeared in each of the country's major daily newspapers expressing the Engineering, Printing and Manufacturing Union's view that: "Air New Zealand is ripping us off". The advertisements claimed a 'corporate trick' by Air New Zealand has meant a pay disparity of "...thousands of dollars a year less than other cabin crew performing the same duties". The advertisements stated that staff had been "...threatened, intimidated, isolated even suspended", for standing up to the injustice. The *Press* reported on a demonstration in central Christchurch where approximately 70 people gathered waving placards, chanting and cheering for passing motorists who tooted in support. One employee was quoted as saying that: "...[w]e wear Air New Zealand uniform, we work on Air New Zealand aircraft and provide service for Air New Zealand, but we are paid lots less. It is unethical. It is the same job". Air New Zealand responded to the strike by locking out Zeal staff and bringing in management to cover for Zeal staff.

The *Press* and the *Nelson Mail* reported that the fate of 400 workers at Sealord's Nelson seafood processing plant was about to be decided. Sealord Group and the Service and Food Workers' Union were heading into mediation over plans to reduce plant costs by \$1.8 million. The chief operating officer of Sealord's NZ Fish business, Jon Safey, stated that the company would commit to the factory for three years if it could make the savings in labour costs. Proposed cost cuts, rejected by union members, included a 12-month wage freeze, improved productivity and lower rates for new staff. Mr Safey said that land-based processing cost Sealord \$3.5m more a year than processing at sea. The bargaining was a continuation of company plans to improve the viability of its Nelson plants. One processing plant lost 180 jobs in March when 7000 tonnes of processing was moved to a leased trawler. Nelson's Labour list MP Maryan Street asked the company to show restraint during the economic downturn saying that "slashing pay and conditions adds insult to injury for the workers."

The case of dismissed NIWA scientist Dr Jim Salinger continued to receive media attention. The *Dominion Post* and the *Press* reported that the parties were heading for mediation and that his dismissal had 'sparked an outpouring of public sympathy for him and a chorus of criticism of Niwa'. Dr Salinger gave details of his hopes for a resolution and a wish to return to his job. However mediation failed and the matter was now heading for the Employment Relations Authority.

The *Bay of Plenty Times* reported on a Mount Maunganui trucking company that was fined \$14,500 for telling an employee he was too big to do the job and suggesting he undergo a stomach stapling operation. The ERA awarded the money to Hastings man Bruce Douglas following his dismissal a week into his new job for Godfrey Haulage. Mr Douglas was given a medical examination prior to being interviewed for a position during September 2007. The nurse found he was fit to work, but noted that he

needed to lose weight. Mr Douglas also suffered pain from a leg injury and leg ulcer. After training for one week, Mr Douglas was in the “smoko” room when his manager phoned him to ask how the job was going. He responded that it was different to long haul, but he was enjoying it and all was well. His manager replied that he had a problem and that Mr Douglas should finish up. When Mr Douglas asked why, he was told he should consider joining a gym and hiring a personal trainer to help him lose weight. Godfrey Haulage was ordered to pay \$10,500 in lost wages and \$4,000 compensation for hurt and humiliation.

The *Dominion Post* reported that after more than a year after Sophie Melrose was wrongfully fired for being pregnant, she had ‘not seen a single cent of the \$36,000 in compensation a court ordered her employer to pay’. Ms Melrose was demoted and then fired from her job as general manager at Auckland's Vulcan Bar in January 2008, after telling her manager that she was pregnant. In November 2008, the Employment Relations Authority ordered Weka Group Limited, to pay Ms Melrose \$35,775 in lost wages and emotional reparation. When contacted the director of Weka Group confirmed that he had not paid Ms Melrose compensation and said he was appealing against the decision to the Employment Court. The Employment Court had no record of an appeal being lodged and Ms Melrose said she had not heard about an appeal.

In a sign of the times the *Sunday Star Times* reported that a number of employers faced with making redundancies were messing up the process, exposing themselves to the risk of being sued by laid-off workers. The number of grievance cases taken against employers was rising steeply. The article gave several examples including the freight forwarding company manager who emailed staff asking them to voluntarily take a day's leave each month without pay and adding that those who complied would be treated favourably when layoffs were considered. Kensington Swan lawyers confirmed that grievance cases taken on by lawyers had more than doubled in two years - with most of the increase coming since mid-2008, when the recession started. Adding to this was an ‘emerging problem’ where New Zealand companies were increasingly being ordered by their global head offices to cut staff and in doing so forcing them to break the New Zealand employment law.

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