

Leave ruling may encourage other workers, says lawyer

Marty Sharpe

A COURT OF APPEAL decision upholding workers' rights to an extra week's long-service leave above the legal minimum four weeks may encourage other workers to have leave reinstated that was removed when the Holidays Act came into force.

Last week the court upheld an Employment Court decision that said the country's biggest meat processor, Silver Fern Farms, had to continue giving long-serving workers at its Hawera plant in Taranaki one week's additional holiday.

The Labour government boosted statutory minimum annual holidays in the Holidays Act 2003, which provided for the minimum three weeks to be increased to four from April 2007.

The Labour Department advised at the time that employees who already had four weeks' annual holidays would not automatically get

extra holidays, as that would depend on their employment agreement.

Among those to miss out on an extra week were meatworkers with more than six years' employment at the Hawera meat plant run by the PPCS co-operative, since rebranded as Silver Fern Farms. Their union took the case to the Employment Court, and last April Judge Coral Shaw ruled that those long-service staff were entitled to five weeks.

Silver Fern appealed, questioning whether the Employment Court had wrongly interpreted historical negotiations and contracts.

The Court of Appeal said there had been a consistent approach of rewarding the loyalty of longer-serving employees by an additional week's annual holiday, and this was a contractual entitlement above the statutory minimum.

Employment lawyer Peter Cullen described the decision as significant for those in a similar

position, but most workers and employers had resolved the issue before the act came into force.

"The approach taken here could affect other people but there has always been a risk of that. Ideally this would be sorted out by the parties. If they want to leave it to the courts, then that's a risk they take – someone's going to win and someone's going to lose."

It was not too late for anyone who had a contract granting them long-service leave at the time of the law change to revisit their situation if the extra leave had effectively been incorporated in the minimum required four weeks' leave.

"They should certainly get legal advice. If they were in the same position as these meatworkers, then I would say they have a case. It's quite a significant decision," Mr Cullen said.

Plenty of notice had been given about the extra week's leave and many employers had resolved the situation ahead of time, he said.