



REDBACK

POSTAL WORKERS UNION OF AOTEAROA

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PWUA wins backpay for up to 21,000 present and past NZ Post employees

An historic legal victory for the PWUA over NZ Post in the Court of Appeal has been confirmed by the Supreme Court.

Post had gone to the Supreme Court wanting to overturn the Court of Appeal decision in favour of the PWUA on Relevant Daily Pay late last year.

The Supreme Court, the highest and final court in this country's legal system, said "there is no appearance of a miscarriage of justice" in the Court of Appeal's decision and declined to hear an appeal by NZ Post.

The case concerns Relevant Daily Pay (RDP) and how it should have been calculated under the Holidays Act.

The dispute the PWUA had with NZ Post was over whether *unrostered* overtime should be included in RDP for some forms of paid leave (see box opposite) and whether the four week averaging formula should be used or not.

Post said that they could determine what employees would have received by simply *excluding* all *unrostered* overtime worked, and that is what they have done since 1 April 2004.

The PWUA said that *unrostered* overtime *should be included* in the calculations so that employees would receive their average daily overtime payment over the preceding four weeks, as this was clearly the intention of the Holidays Act.

The highest courts in the land have agreed with the PWUA.

The actual amount of backpay that is

now owed to each Post employee, past and present, will vary greatly depending on the amount of *unrostered* overtime they have worked since 1 April 2004.

Rostered overtime, which is overtime which has been scheduled in advance on the work roster, should already have been included in employees' past RDP payments.

An employee who has not worked any *unrostered* overtime will be owed nothing.

A full-time employee who has worked an average of one hour's unrostered overtime each day could be owed (depending on their hourly rate and the number of days of sick and bereavement leave they have taken) between \$250 and \$500 for each year of their employment at Post since 1 April 2004.

Post CEO, Brian Roche, has given the PWUA a commitment that a separate team of people will be established within the company and tasked with calculating the exact amount of backpay owed.

Brian Roche has told the PWUA that calculations will need to be done for about 21,000 NZ Post past and present employees, which includes about 7,000 current employees.

Because the Court of Appeal's judgement on how RDP must be calculated is a decision about the Holidays Act, the result applies to all employees in all occupations throughout New Zealand. This means that PWUA members in Datam will also benefit.

What is

Relevant Daily Pay?

Relevant Daily Pay (RDP) is the pay an employee must receive for

- public holidays
- alternate holidays (days off in lieu of public holidays)
- sick leave
- bereavement leave

The Holidays Act, which came into force on 1 April 2004, says that RDP is the amount of pay that an employee would have received had the employee worked on those leave days, including payments for overtime if those payments would have otherwise been received.

The Act went on to say that if it was not possible to determine what an employee would have received, then for each day they were on these types of leave they must be paid their *average daily earnings* calculated over the *preceding four weeks*.

PWUA first raised RDP issue with Post in 2004

The PWUA first raised the RDP issue with NZ Post in June 2004 when the union became aware that Post was not including unrostered overtime in its RDP calculations.

Post initially said that they were looking into the matter. Then, after a long delay, Post wrote to the PWUA in 2006 acknowledging that they were calculating RDP wrongly and that they were in the process of calculating the backpay that was owed.

By mid 2007 it had become clear to the PWUA that the company was doing nothing. So the PWUA filed a dispute in the Employment Relations Authority in Auckland.

At around the same time a Christchurch postie and PWUA member filed a claim for arrears of RDP payments owed to her by Post.

The two sets of Court proceedings were joined and proceeded through mediation, the Employment Relations Authority, the Employment Court, the Court of Appeal and the Supreme Court. The final Court decision came nine years after the PWUA first pointed the problem out to Post.

PWUA still collecting claims for new Collective Employment Agreement

The 2011 - 2013 PWUA/NZPost Collective Employment Agreement expires on 30 June. The PWUA will begin negotiations with Post for the new CEA in May.

Some of the most popular claims from the hundreds received from PWUA members so far include:

- A percentage wage increase on wages and allowances.
- A 5 day working week for posties with no loss of earnings (over 52% of claims received so far).
- Increased sick / domestic leave.
- Retaining night rate for mail sorters now and for future employees
- Retaining all previous CEA terms and conditions - no "claw backs".
- Paid leave on the Saturdays of Easter, Queen's Birthday and Labour Weekend.
- Improved earning opportunities for team leaders and delivery support in PPM work sites.
- Delivery of circulars to be paid as piece rates (inside circular collation to remain included in the WMS).
- Extra vehicle maintenance allowance for wear and tear to the inside and outside of cars in "Single Delivery Agent" branches.
- Increased "buddy" training allowance for trainers.
- Weekly laundry allowance.

Six monthly PWUA and Post meeting

Some of the issues covered during the six monthly PWUA and Post meeting earlier this month:

- **Safety:** Post has not found any pattern in increased lost time injuries.
- **WMS "quick guide":** Post says it is not possible to produce a "quick guide" for the complicated Work Measurement System. However the PWUA has produced a basic guide to the Work Measurement System that can be updated to include PPM issues.
- **E-bikes:** Changes include new front pannier bracket, bottom of panniers are now less brittle and less likely to be damaged when loading, change to power connector, waterproof cover and a flashing LED back light.

- **BUIP criteria:** Proposal for 25% "take fives", 25% hazard reports and 50% for keeping Postie Pay Model base pay make-up within target.
- **Cmotor:** Should be paid both ways for posties sent to another branch after turning up for work.
- **Payroll systems:** Does not comply with the Wages Protection Act when overtime payments are delayed.
- **Walk bags:** Post will consult with its Health and Safety team about a requirement for posties to wear empty walk bags even when delivering only a handful of mail from a car.
- **Bereavement leave:** There have been some refusals for paid bereavement leave in the northern area.

PWUA submission on Deed of Understanding and options for declining mail volumes

The PWUA put forward a comprehensive submission on NZ Post's proposal to change the Deed of Understanding the company has with the Government.

Employees and customers of NZ Post were taken aback by the company's proposal to change the Deed to allow a reduction in delivery days from six days a week for most New Zealand households to "a minimum of three days a week".

The PWUA submission rejected the company's proposal to reduce delivery days below five days on the basis that to do so would accelerate the decline in mail volumes delivered by Post.

Any savings would be temporary and leave the company in a worse position long term.

A reduced delivery service from Post would allow private competitors to take an even bigger share of mail volumes.

Meanwhile many Post employees would lose their jobs and the integrity

and reliability of the postal industry as a whole would be adversely affected, resulting in a reduced service to customers.

The PWUA also highlighted Clause 17 of the Deed, which allows competitors to cherry-pick profitable mail away from NZ Post while dumping unprofitable business back on NZ Post.

The PWUA believes that it is impossible for NZ Post to compete on equal terms with private companies which are not required to provide a full nation wide postal service.

The New Zealand Council of Trade Unions also made a submission on the Deed after first consulting with both the PWUA and EPMU.

The NZCTU's submission covered a wide range of concerns, including the impact on rural and economically disadvantaged communities of reduced deliveries and fewer postal outlets.

Copies of PWUA and NZCTU submissions are available from union offices.

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Concern about correct bike tyre inflation

A tyre blowout recently caused an Auckland postie to almost fall off her bike.

The PWUA then followed up on a report that there had been a batch of faulty tyres being used in Auckland.

Post says there are no faulty tyres however the Health and Safety Manager says the Marathon Tour tyres used in Auckland when inflated to no more than 50 psi, and not the 70 psi on the tyre, give a better grip in the wet.

The PWUA is following up on both the supply of tyres and correct tyre inflation.

Union noticeboards

Union members do not need permission from team leaders or branch management to put any information provided by the PWUA onto union notice boards.

If necessary the delegate can ask the team leader or manager to allocate a space for PWUA information.

Any problems delegates or members have in getting a dedicated space for PWUA information can be referred to your nearest PWUA office.

REDBACK is published by the Postal Workers Union of Aotearoa | PO Box 6287, Marion Square, Wellington

POSTAL WORKERS UNION OF AOTEAROA (NORTHERN)

PO Box 95211 Swanson Auckland 0653

I hereby appoint the Postal Workers Union of Aotearoa incorporated to be my authorised representative under Sections 18 and 236 of the Employment Relations Act 2000. For the purpose of this authority any duly appointed representative of the PWUA is empowered to act on my behalf in any matters related to or arising out of the negotiation and application of any Employment Agreement or any other matter relating to my employment at my request. This authority shall continue in force until revoked by myself, giving two weeks notice.

Name (PLEASE PRINT)

Signed

Date Appointment No.

Employer

Branch

Home Address

Phone

Deduction Authority for Postal Workers Union of Aotearoa (Northern)

I authorise my employer to deduct:

\$4.95 per week when I am employed for 30 or more hours per week, or

\$2.50 per week when I am on-call, or employed for less than 30 hours per week from my pay and credit the Postal Workers Union of Aotearoa Northern District.

Please stop any other deductions from my pay to any other union.