

## BUSINESS **Affco workers may finally be paid for lost wages after lock out, three years on** 6 Dec, 2018



Affco workers protesting their plight in Wairoa in 2015, left Peter Amato, now site union secretary, and supporter Phil Reweti of Whanganui. Photo / File

Hawkes Bay Today

By: Doug Laing

The Court of Appeal has ruled striking Affco workers unlawfully locked out three years ago should be paid for lost wages.

But they shouldn't expect to see it turn into money for a festive season spend-up, according to New Zealand Meat Workers Union national secretary Graham Cooke.

He expected company owner Talleys to take all four weeks it has from the time of yesterday's judgement delivery before deciding it will accept the decision, or go another round and take the matter to the Supreme Court.

The Employment Court ruled three years ago the lock-out of Affco staff was unlawful.

Workers, who were without pay for up to five months, should be paid lost wages under the Wages Protection Act, the Court of three judges decided in turning down the company's appeal.

"It will bring some cheer to those workers if they can look forward to a payment early in the new year," Cooke said.

The combined payout was estimated at close to \$2 million, including interest, Cook believed.

In Wairoa, union site president and plant employee Therese Turipa said workers had been through a lot.

"Through five months, our families were without wages and it was only with the support of the community, our union and the wider union movement we managed to get through."

"But it left scars that continue to this day," she said.

"We've lost members due to hardship and even death. Even worse, Affco has lost skilled and dedicated workers who have had no choice but to move to other places to find work."

Shed secretary and beef slaughterman Pete Amato said workers "keep hoping Affco will do the right thing and promptly pay Wairoa union members for the terrible loss they incurred by standing up to the Company in 2015".

"We've been through court case after court case and in every instance, Affco was found to have unlawfully locked us out," he said. "We all just want to move on. Our small community and our whanau have suffered and we need to begin the rebuilding. We hope that Affco will accept this decision so we can begin to put the past behind us."

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# Pay Affco workers — Appeal Court

THREE years after the Employment Court ruled that Affco workers were unlawfully locked out, the Court of Appeal has delivered a decision confirming workers at the Wairoa plant should be paid lost wages under the Wages Protection Act.

The combined payout is estimated to be close to \$2 million but it is unlikely that any payout to workers will happen before Christmas, with Affco undertaking a legal review of the decision.

The Court of Appeal decision is the latest in a three-year legal battle between the New Zealand Meat Workers Union and the owners of Affco, Talley's Group Ltd.

In 2015, Affco workers in Wairoa who refused to return to a new season on individual contracts were locked out for five months. Affco justified their actions based on amendments to the Employments Relations Act which allowed firms to opt out of multi-employer agreements and removed the duty, under good faith bargaining, for both sides to reach agreement.

The Employment Court ruled the lock-out unlawful and ordered that

union workers return to work. However, workers soon discovered they were returning to terms and conditions contrary to their previous collective agreement, including mandatory night shift work. After further litigation, the original collective agreement was reinstated. Affco appealed to the Court of Appeal and the Supreme Court, to no avail.

This latest decision was an appeal of the Employment Court decision by Justice Bruce Corkill in September 2016 that ruled in favour of the NZMWU, saying the lack of payment by Affco was unlawful.

Affco's appeal was on the point "Are any entitlements of the members arising from being unlawfully locked out entitlements to wages under the Wages Protection Act 1983?"

The Court of Appeal decision was made by Justice Helen Winkelmann, Justice Raynor Asher and Justice Brendan Brown, dismissing Affco's appeal and upholding Justice Corkill's decision that the lock-out was unlawful and that Affco should pay lost wages under the Wages Protection Act.

The decision has been welcomed by local Wairoa Meat Workers Union members.

"We have been through so much," said NZMWU site president in Wairoa, Therese Turupa.

"Through five months, our families were without wages and it was only with the support of the community, our union and the wider union movement we managed to get through.

"But it left scars that continue to this day. We've lost members due to hardship and even death. Even worse, Affco has lost skilled and dedicated workers who have had no choice but to move to other places to find work."

Pete Amato, NZMWU shed secretary said, "We keep hoping Affco will do the right thing and promptly pay Wairoa union members for the terrible loss they incurred by standing up to the company in 2015. We've been through court case after court case and in every instance, Affco was found to have unlawfully locked us out."

"We all just want to move on. Our small community and our whanau have suffered and we need to begin the

rebuilding. We hope that Affco will accept this decision so we can begin to put the past behind us," he said.

New Zealand Meat Workers Union national secretary Graham Cooke acknowledged his union members and the NZMWU legal team.

"I am extremely pleased our legal team is doing such a great job of putting the issues so clearly, simply and successfully to our New Zealand judges.

"Unfortunately the legal system is not fast and if Talley's decide they will adopt a strategy of illegal activity then the only recourse is back to the courts.

"Further I am proud to represent such a loyal group of union members that have stayed the course. Based on Affco's past performance, they could take four weeks before deciding to accept the decision, or go another round and take the matter to the Supreme Court as they did in 2015.

"The simple fact is these workers are owed up to \$2m in lost wages and interest. This money should be paid to the members and their families, and most likely spent in the Wairoa community."

# Affco workers still waiting for payout

## Local MPs astounded at continuing delays

INTEREST continues to accrue on wages owed to Wairoa Affco workers involved in the 2015 lock-out, with Affco saying there are still issues to be resolved before the company pays out.

Last December the Court of Appeal ordered the company to pay wages and interest to around 200 affected workers for the five months they were unlawfully prevented from working.

Three months later the nearly \$2 million payment is yet to be made.

“Affco did not appeal to the Supreme Court about this latest decision but neither have they paid out,” said New Zealand Meat Workers Union (NZMWU) national secretary Graham Cooke.

“Unfortunately this company continues to exhibit no reconciliation.

Other companies in New Zealand would have moved on and paid their workers if found guilty but this company seems to see union membership as a reason to be vindictive and uncooperative.

“The NZMWU has little choice but to continue with litigation to ensure these Wairoa families receive their rightful entitlement.”

Affco general manager Nigel Stevens confirmed that Affco has not filed an appeal with the Supreme Court in regard to the December decision, but said there were remaining issues to be resolved before any final wage amounts could be finalised and paid.

“Representatives from both Affco and union remain in constructive discussion to resolve these outstanding issues so that payments can be made to those

individuals.”

The employment dispute dates back to September 2015 when union workers refusing to sign new individual contracts were locked out.

The Employment Court ruled the lock-out to be unlawful and subsequent court action has been ongoing.

Local MPs when approached for comment surrounding this latest development were outspoken in their support for the Wairoa workers and their whanau.

**‘This to-ing and fro-ing has carried on far too long. Affco needs to do the right thing. Pay up so everyone can move on.’**

Ikaroa-Rawhiti MP  
Meka Whaitiri

“This to-ing and fro-ing has carried on far too long. The Courts found the lock-out was unlawful and retribution has been ordered.

Affco needs to do the right thing. Pay up so everyone can move on,” said MP for Ikaroa-Rawhiti Meka Whaitiri.

Wairoa and Napier MP Stuart Nash, who visited the workers during the 2015 lock-out said he was astounded.

“The law is the law, and no one is above the law. I understand there are judicial processes that parties can go through but this has been going on for too long. I expect Affco should do everything necessary to comply with the Court of Appeal judgement.

“If the company has been instructed to pay, then it should pay promptly. If not then they are in contempt of court.

“The community wants to move forward.”

Affco was bought by billion-dollar South Island food producer Talley’s Group Ltd in 2010.

The Wairoa Star is awaiting a response from Talley’s Group.

