



FAIR WORK
AUSTRALIA

DECISION

Fair Work Act 2009

s.158 - Application to vary or revoke a modern award

Scott Jennings

(AM2012/10)

Agricultural industry

COMMISSIONER BISSETT

MELBOURNE, 11 APRIL 2012

Application to vary a modern award - failure to prosecute - application dismissed

[1] On 21 February 2012 an application to vary the *Pastoral Award 2010* in accordance with s.157 of the *Fair Work Act 2009* (the Act) with respect to certain meal allowance provisions was received from Mr Scott Jennings. As is the practice of Fair Work Australia the application was posted on the Fair Work Australia website as was the notice of listing.

[2] The application was listed for hearing before me on 21 March 2012. The day prior to the hearing the National Farmers' Federation (NFF) indicated that it would be attending the hearing and would oppose the application.

[3] On the day of the hearing the Applicant failed to appear. Attempts by my associate to contact him were unsuccessful. The NFF did appear and objected to the application proceeding on the basis that the Applicant was not an employer or employee covered by the *Pastoral Award 2010* and therefore under s.158 of the Act had no standing to make the application.

[4] On 27 March 2012 my chambers wrote to Mr Jennings enclosing a copy of the transcript of the hearing of 21 March 2012 and asked that he provide to me:

(a) any comment he wished to make with respect to matters raised in the enclosed transcript; and

(b) advice as to whether or not he wished to proceed with the application to vary the *Pastoral Award 2010*.

[5] Mr Jennings was advised that, if he wished to proceed, the application would be re-listed for hearing and, should he fail to attend such a hearing, I would consider any application to dismiss his application for failure to prosecute.

[6] No response has been received from Mr Jennings to that correspondence.

[7] It would appear by his inaction that Mr Jennings has no intention of prosecuting his application to vary the *Pastoral Award 2010*. The application is therefore dismissed for want of prosecution.



Appearances:

B Duggan of the National Farmers' Federation.

Hearing details:

2012.

Melbourne:

March 21.

