

From: Michael Nguyen [mailto:michael.nguyen@amwu.org.au]
Sent: Friday, 26 May 2017 9:55 AM
To: Brent Ferguson; Chambers - Hatcher VP
Cc: Ruchi Bhatt; roushan.walsh@nat.awu.net.au; AMOD
Subject: RE: AM2016/3 Proposed Helicopter Aircrew Award

Dear Associate to Vice President Hatcher,

The AMWU respectfully seeks permission to make some brief submissions about the draft directions proposed by the AiGroup and to respond to the issues raised.

1. Final Draft determination to be filed at the beginning as a claim

The AMWU has already lodged a draft award which provides parties with an indication of what is being proposed. We have also provided to the parties a revised draft coverage clause. We can provide a new draft award and coverage clause. However, the Union strongly opposed any requirement that the Union be strictly held to this form for its final submissions.

The union had advised the AiGroup that it intends on filing submissions about award coverage as well as the proposed safety net terms and conditions to apply, following on from the draft award already lodged. It is anticipated that the terms and conditions would not be different from the Award already lodged, unless the further research and preparation of the matter identifies that there are specific industry terms and conditions that are ubiquitous which are not taken into account in the previously lodged draft award. We sought to address this concern by specifically identifying that a draft determination would be lodged again with the final submissions.

In terms of the final form being lodged prior to the finalisation of submissions, it is not reasonable for the AiGroup to try and tie up the Union's submissions with bureaucratic hurdles which might hinder a course of action being proposed for the Commission which more closely aligns with the facts which present as a result of the further work and research undertaken to finalise the submission.

There are examples from other Modern Award review matters where a party or the Commission has not been bound by any previous draft determination or proposed model clause presented by that party in subsequent submissions as facts arise in proceedings. Discussions between parties and finalisation of materials will necessarily lead to revisions to draft determinations which have been accepted in other matters.

While the AiGroup's view of the world might work for party disputes – the broad ranging nature of Award matters necessarily means that there will be work done in the preparation of materials, to assist the commission in discharging its responsibilities, will result in changes to the views of the party preparing the material.

The proposal for a fixed and final draft determination in the beginning raised by the AiGroup also appears to constrain what might come out of the conference which the AiGroup has proposed a date for which highlights the nonsensical nature of the proposal being applied to this proceeding.

The AiGroup's view that parties should be required to seek permission for changes to proposed draft determinations will result in an extended timeline for the conduct of the

matter and potentially further hearings which will also consume resources of the Commission and parties, with no improvement in the overall fairness of the proceedings.

This type of technical procedural proposal from the AiGroup is not in the interests of a hearing that is fair and just, quick and informal and gets to the heart of the issues without unnecessary technicalities and processes.

The AiGroup will have more than sufficient time from when submissions are lodged by the Union to prepare their materials in response.

2. The deadline for AiGroup submissions

The deadline presented by the AiGroup provide additional time for the AiGroup which are unfair and reduce the time for the Union to prepare submissions in reply. It is highly likely based on previous matters, that there will be substantial matters which the Union will have to respond to which the AiGroup raise.

3. The hearing dates being in mid-December.

We anticipate from mid-Dec there will be a high likelihood of employees being on leave during the Australian holiday period of Mid-Dec to Australia Day. Whilst Advocates of the Union will make themselves available for the hearing as directed, it will be difficult to compel voluntary witnesses to alter their plans for the holiday period if they have already made arrangements. The matter will involve presenting evidence to the Commission about the employee's terms and conditions of employment, skills and qualification and work performed. These findings will be critical to the Commission's consideration. This is the reason why the Union has attempted to formulate a timeline with hearing dates either in the week 4 Dec or after Australia Day.

Regards

Michael.

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