



United Firefighters Union

Victorian Branch ABN 74 030 569 265

410 Brunswick Street
Fitzroy Victoria 3065
Australia
Email: officeadmin@ufuvic.asn.au
Phone: (03) 9419 8811

Website: www.ufuvic.asn.au
Fax: (03) 9419 9258

Fair Work Commission

Via email: AMOD@fwc.gov.au

23 November 2018

Re: [2018] FWCFB 5986 – AM2014/198 and others

Rate of pay – public sector workers on day work

1. During a conference on 7 November before Justice Ross, it was agreed that Unions would provide a submission regarding the rate that public sector day workers are paid under Fire Fighting Industry Award 2010. In particular, whether or not employees should be paid the minimum weekly rate or the same employees working the 10/14 roster. The submission is provided below.
2. Ordinary hours for public sector day workers under the Fire Fighting Industry Award 2010 are set out in clause 22.4. Under this clause, employees engaged in day work may be required to work up to 10 ordinary hours per day, between the hours of 7.00 am and 6.00 pm, Monday to Sunday.
3. The Award does not provide for penalty rates for day work employees for working either on weekends or public holidays, despite allowing for employees to work ordinary hours at these times.
4. Public sector workers engaged on the 10/14 roster are entitled to a 30 percent loading which is built into their minimum wage under clause 27 of the Award in lieu of penalties for various types of unsociable hours. The amount is not able to be separated into amounts payable for respective types of unsociable hours such as weekend, public holiday and night shift penalties.
5. Public sector day workers may be required to perform unsociable hours that are compensated by the loading. Public sector day workers are also able to meet the definition of shift worker provided in clause 28.2. Accordingly, they should receive the same loading payable to workers performing the 10/14 roster.
6. Were public sector day workers to be paid at the minimum rate only, the Award would have, effectively, been changed to allow unsociable hours to be performed by employees under the award without compensation. This has not been argued for by any party.
7. It has been a long-standing practise within all public sector fire-services to pay a 'rolled in rate' inclusive of penalties for weekends, public holidays and night shift. This was

reflected in the pre-modern awards, which also did not contain separate penalty rate amounts.

8. Payment of a rolled in rate has a clear benefit to employees. By smoothing out payment's, employees are better able to plan financially and access loan finance. If day-workers are denied this benefit they will be disadvantaged relative to shift workers.
9. This is particularly undesirable given that a disproportionate number of people with family and carer responsibilities perform day work.
10. The current practise across enterprise agreements in both the private and public sectors is to pay day workers at the same hourly rate. The modern award should reflect this practise.

Definition of overtime – private sector

11. During the conference on 7 November, it was noted that unions were in agreement regarding the definition of overtime in the private sector under the Award. Unions agreed to provide jointly agreed wording for a clause to reflect that agreement. The clause is as follows:

“ii) For a shiftworker not working on a 10/14 roster, overtime is any time required to be worked:

- *In excess of a rostered shift; or*
- *In excess of 38 hours per week.”*

Yours faithfully,



Jeremy Murphy
Industrial Officer
United Firefighters Union