



REPORT

Fair Work Act 2009

s.156 – 4 yearly review of modern awards

4 yearly review of modern awards–Award stage–Group 4 awards–

Substantive Issues

(AM2018/57 and AM2017/59)

RESTAURANT INDUSTRY AWARD 2010

[MA000119]

HOSPITALITY INDUSTRY (GENERAL) AWARD 2010

[MA000009]

JUSTICE ROSS, PRESIDENT

SYDNEY, 14 NOVEMBER 2018

*4 yearly review of modern awards – award stage – group 4 awards – substantive issues –
Restaurant Industry Award 2010 – Hospitality Industry (General) Award 2010.*

[1] This Report deals with the substantive claims to vary the *Restaurant Industry Award 2010* (the Restaurant Award) and the *Hospitality Industry (General) Award 2010* (the Hospitality Award).

[2] The Restaurant Award and the Hospitality Award were listed for Mention on 9 November 2018. A [transcript](#) of the Mention is available on the Commission’s website.

[3] The following organisations were represented at the Mention:

- Australian Business Industrial (ABI)
- Australian Hotels Association, the Accommodation Association of Australia and the Motor Inn, Motel and Accommodation Association (jointly AHA)
- Restaurant and Catering Industrial Association (RCI)
- United Voice

[4] It was confirmed at the Mention that the claims in relation to the Restaurant Award will be heard on Monday 26 November 2018, with witness evidence being dealt with at the commencement of the hearing. Claims in relation to the Hospitality Award will be heard on Tuesday 27 November 2018 with Wednesday 28 November 2018 reserved (if necessary). All hearings will commence at 9.30am.

Restaurant Award

[5] In [correspondence](#) dated 12 November 2018, RCI confirmed it will be calling three witnesses:

- Frances Edmund Brailey
- Kris Raymond Bunder and
- Glen Colin Day.

[6] In that correspondence, RCI also confirmed that they would not be contesting the summary of the relevant legislative provisions dealing with the service of alcohol in the reply submissions of United Voice of 2 November 2018 (at paragraphs 35 to 39).

[7] At the Mention, an issue relating to RCI's claim regarding wages to be paid any day of the week was discussed. Two options were proposed in relation to the claim:

- refer the claim to the Payment of Wages Full Bench; or
- defer consideration of that claim until the Payment of Wages Full Bench has considered the general proposition and then return to the claim in the Restaurant Award against the background of whatever that Full Bench decides.

[8] It was decided that the claim would be referred to the Payment of Wages Full Bench for determination.

Hospitality Award

[9] In relation to the Hospitality Award there are a number of matters that are not opposed, however there remain some areas of dispute. United Voice and the AHA are directed to file a joint report setting out the matters agreed to and a draft variation determination varying the current award in respect to the award by no later than **4.00 pm Monday 19 November 2018**. If the parties seek a conference before a member of the Commission they are to put a request in writing to chambers.ross@fwc.gov.au.

[10] United Voice are directed to file any documentary material it wishes to rely on in support of its tool allowance claim by **4.00 pm Monday 19 November 2018**.

[11] ABI are directed to file a short written submission outlining their position in respect of the three claims that are being pressed by no later than **4.00 pm Monday 19 November 2018**.

Notices to Produce Documents

[12] United Voice foreshadowed that it would be making applications in respect of orders for production of documents in both matters. Those applications are listed for Hearing before Commissioner Lee on **Friday 16 November 2018 at 9.30 am**.

Tool allowance claims

[13] It was agreed that United Voice's submissions in support of its tool allowance claims in respect of both the Restaurant and Hospitality Awards would be put in the afternoon of Monday 26 November 2018. Those submissions would then be adopted by United Voice

during the course of the proceeding of Tuesday 27 November 2018 in respect of the Hospitality Award.

PRESIDENT