

IN THE FAIR WORK COMMISSION

Matter No: AM2014/268

Section 156 - Four Yearly Review of Modern Awards –Award stage –Group 4 awards

SUBMISSION OF UNITED VOICE

21 August 2018

1. This submission is responsive to the Decision¹ of the Full Bench of the Fair Work Commission dated 7 August 2018 ('Decision') concerning outstanding matters within the Group 4 Awards. In the Decision, parties were invited to file submissions on a number of outstanding matters and provisional views.
2. United Voice makes submissions regarding the *Food, Beverage and Tobacco Manufacturing Award 2010* ('Food Manufacturing Award'). References to clauses within this submission are to the Exposure Draft of the Food Manufacturing Award, unless otherwise identified.
3. In paragraph [222] of the Decision, it is stated that changes made in respect of the term '*applicable rate of pay*' in the *Manufacturing and Associated Industries and Occupations Award 2010* ('Manufacturing Award') review would be adopted in the Food Manufacturing Award and that any party seeking to deviate from this approach could pursue the matter as a substantive variation.
4. United Voice was not involved in the review of the Manufacturing Award. We object to the changes proposed in paragraph [225] and [226] of the Decision and consider this a technical and drafting matter that can be resolved without the need to pursue a substantive variation.
5. In paragraph [225], the term '*applicable rate of pay*' has been deleted from clause 13.1(b) and the words '*employees will be paid for the fifth hour at the rate applying immediately prior to the end of the fourth hour*' have been inserted.
6. In paragraph [226], the term '*applicable rate of pay*' has been deleted from clause 13.4 and replaced with the words '*rate of pay applying to the employee immediately prior to the scheduled meal break*'.
7. In some circumstances, the rate of pay that an employee is entitled to in a later hour of work will vary from the rate of pay that an employee was entitled to in an earlier hour of work. Both the proposed amendments in paragraph [225] and [226] '*lock*' the rate of pay to that which applied in an earlier hour or time.

¹ [2018] FWCFB 4175

8. As an example, if an employee began a rostered night shift at 7pm on Friday and the fourth hour of work was from 11pm to 12 midnight on Friday but the fifth hour of work was from 12 midnight to 1am on Saturday, the rate of pay that the employee would be entitled to in their fifth hour of work would be different to the rate of pay that the employee was entitled to in their fourth hour of work. The employee would be entitled to payment at 115% of the ordinary hourly rate for the first four hours in accordance with clause 24.3(b) but for the fifth hour, the employee would be entitled to be paid 150% of the ordinary hourly rate in accordance with clause 24.4.
9. If the proposed amendment in paragraph [225] was in effect, the employee would be paid a reduced shift loading for the fifth hour than they are currently entitled to be paid.
10. United Voice supports the retention of the term '*applicable rate of pay*'. However, if the Commission determines that the term will be removed it is essential that any replacement term clearly states that an employee is entitled to be paid the correct penalties and loadings that apply at the relevant time.

UNITED VOICE
21 August 2018