



DECISION

Fair Work Act 2009

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

Darryl Atkins

(AM2010/59)

SENIOR DEPUTY PRESIDENT
HARRISON

SYDNEY, 3 AUGUST 2010

Application to vary the Road Transport (Long Distance Operations) Award 2010.

[1] On 23 April 2010 Mr Atkins filed an application to vary the Road Transport (Long Distance Operations) Award 2010¹ (the Award). The application was not in a form which reflected any particular clause or clauses of the modern award he sought to be varied but rather contained reasons why he submitted that the Award had given rise to a reduction in the wages and penalties to those he had previously enjoyed.

[2] On both 2 June 2010 and 19 July 2010 this matter was listed for mention and programming before me. On the first occasion there was a discussion with Mr Atkins highlighting the need for him to take advice about his application and to consider whether it was appropriate in relation to what appeared to be the relief he sought. He was asked to also consider the several decisions that issued prior to the making of the Award as part of the award modernisation process.

[3] In the hearing on 19 July it seemed Mr Atkins had not considered the matters which had earlier been raised nor had he taken any advice about them. Although he had filed an amended application it did not address the various matters which an applicant needs to in order to have a modern award varied. His complaint continued to be about matters which would not suggest an application to vary the Award would be the justified. I advised Mr Atkins that he had 14 days in which to consider all the matters I had asked that he do so

previously and if he wished to press his application he should advise my chambers, in writing, by no later than Monday 2 August 2010. He was advised that if he did not do so by that date I would consider that he no longer wished to press his application and that it was withdrawn.

[4] Nothing further has been received from Mr Atkins. I consider his application to have been withdrawn.

SENIOR DEPUTY PRESIDENT

Appearances:

Mr D Atkins, on his own behalf.

Mr S Shearer, SA Road Transport Association, for Atkins Freight Services Pty Ltd.

Mr M Burns, for the Transport Workers' Union of Australia.

Mr P Ryan, for the Australian Road Transport Industrial Organisation.

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¹ MA000039