



DECISION

Fair Work Act 2009

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

Indigenous Education And Boarding Australia

(AM2022/28)

Educational Services

DEPUTY PRESIDENT CLANCY
COMMISSIONER BISSETT
COMMISSIONER YILMAZ

MELBOURNE, 1 NOVEMBER 2023

Application to vary the Educational Services (Schools) General Staff Award 2020.

[1] This decision deals with an [application](#) under s.158 of the *Fair Work Act 2009* (**the Act**) made by Indigenous Education and Boarding Australia (**IEBA**) (hereinafter described as “**the Application**”) to vary the *Educational Services (Schools) General Staff Award 2020* (**General Staff Award**)¹ by broadening its coverage.

Background

[2] By way of background IEBA outlined in the Application:

- a) In Australia, in addition to approximately 198 boarding schools, there are 41 boarding residences that operate independently of a school, often referred to as hostels.
- b) The boarding residences/hostels provide residential accommodation and educational support for students who study away from home.
- c) The boarding schools and boarding residences/hostels provide the same accommodation and educational support to secondary students.
- d) Both boarding schools and boarding residences/hostels employ employees who provide ‘boarding supervision services’ as defined in clause 2 of the General Staff Award.
- e) The classifications in the General Staff Award for employees providing ‘boarding supervision services’ in boarding schools are capable of applying to employees in the boarding residences/hostels.
- f) Clause 4 of the Award extends coverage to the ‘school education industry’ to include:

- i) *any employer which supplies labour on an on-hire basis in the school education industry* (Clause 4.5); and
 - ii) *employers which provide group training services for apprentices and/or trainees engaged in the school education industry* (Clause 4.6).
- g) It sought for residential boarding residences/hostels to be included within the coverage of the General Staff Award because such employers provide a service to the education sector and their employees perform the same duties as those employees in classifications detailed in the General Staff Award.

[3] A conference before Deputy President Clancy took place on 19 December 2022. In attendance were representatives from IEBA, the Australian Education Union (AEU), the Independent Education Union (IEU) and the Australian Services Union (ASU). IEBA outlined some additional information and it became apparent that these particular unions had a range of questions arising out of the Application. It was suggested that the issue of coverage raised by the Application might also be of interest to the United Workers' Union (UWU) and the Health Services Union (HSU). The [transcript](#) of the conference was published on the Commission website on 9 January 2023.

[4] A previously constituted Full Bench of the Commission issued a Statement dated [23 December 2022](#). The 23 December 2022 Statement contained directions requiring the Applicant and various interested parties to file and serve material in relation to the application.

[5] Subsequently, on 14 March 2023, the President confirmed that as a consequence of amendments made to the Act by the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022*, the application was required to be dealt with by an Expert Panel for the Care and Community Sector.

[6] As a consequence, the previously constituted Full Bench issued the [Statement dated 5 April 2023](#) in which it vacated the directions outlined in the 23 December 2022 Statement and advised the parties that they were not required to take any further steps, but instead await further advice from the Commission in relation to the future conduct of the Application.

[7] On 24 May 2023, the President directed that the Application be dealt with by this presently constituted Expert Panel for the Care and Community Sector.

[8] The directions outlined in the 23 December 2022 Statement had afforded IEBA the opportunity to file an outline of submissions addressing, inter alia, the modern awards objective, together with any witness statements and documents upon which it intended to rely in support of the application. IEBA responded by filing a [Submission dated 23 February 2023](#).

[9] In this submission, IEBA advised it was seeking to vary the General Staff Award so that it covered employees employed by standalone boarding residences/hostels providing boarding accommodation to school students but operating independently of a school, who perform 'boarding supervision services' as defined in clause 2 of the General Staff Award.

[10] The ASU sent a collective response on 17 March 2023 on behalf of the AEU, the IEU and the UWU (collectively, **the Unions**). Through their [Response dated 17 March 2023](#), the Unions submitted:

- a) They were unable to make a meaningful contribution to the Commission’s assessment of the merits of the Application given the “limited material” filed by the Applicant;
- b) The directions outlined in the 23 December 2022 Statement ought be varied to provide the Applicant with an extension of four weeks to provide further detail in relation to the Application;
- c) The Applicant be granted a further four weeks to provide the following material:
 - i) Submissions addressing how the proposed variation supports the modern awards objective under section 134 of the Act.
 - ii) Further details in relation to the cohort of employees potentially impacted, including:
 - The number of workers currently employed in the sector.
 - The number of workers who would be affected by the variation sought.
 - The Awards and classifications under which the potentially affected workers are currently employed.
 - The employment locations of the relevant workers.
 - Modern awards or Agreement (if any) applicable to their employment.
 - iii) Further information concerning the nature of the work performed by potentially affected workers, including:
 - De-identified position descriptions for such employees; and
 - Materials setting out in detail the current terms and conditions of the relevant employees.
 - iv) Submissions setting out why the Applicant believes that its objectives are best achieved through an award variation rather than through its members engaging in good faith enterprise bargaining.

[11] Having regard to the Submission dated 23 February 2023 and the Response dated 17 March 2023, we issued a [Statement dated 30 May 2023](#), containing directions requiring:

- a) IEBA to file an **outline of submissions** addressing, inter alia, the *modern awards objective*, together with **any witness statements and documents** upon which it intended to rely in support of the Application, addressing the matters raised in the Response dated 17 March 2023 and in particular, outlining a description of the sector and services provided, including the profile of the employers in the sector and the boarders residing in the hostels (e.g. secondary school students, trainees and/or school-based apprentices) and the work performed by employees in the sector.

- b) The Unions, together with any other interested parties, to file and serve an outline of submissions together with any witness statements and documents upon which they intended to rely in response to the Application.
- c) The Applicant to file any submissions and material in reply.

[12] At the [Hearing](#), Mr Greg Franks appeared for the IEBA, Mr Jack Kenchington-Evans appeared for the AEU and also represented the IEU. Mr Thomas Malone and Mr Nikolas Pefanis appeared for the UWU and Ms Virginia Wills appeared for the ASU.

Submissions

[13] IEBA filed [Submissions dated 27 June 2023](#), summarising what is sought by the Application as the variation of the General Staff Award to include award coverage for employees of standalone boarding residences/hostels providing boarding accommodation to school students, but operating independently of a school, who provide ‘boarding supervision services’, as defined in clause 2 of the General Staff Award. IEBA submits the effect of the Application, if granted, would be to ‘rope in’ student hostels employing boarding supervisors currently excluded from the General Staff Award and suggests the proposed variation will extend clause 4, which it says already provides extended employer coverage to labour hire employers and employers providing group training services for apprentices and/or trainees in the school education industry.

[14] At the Hearing, the IEBA confirmed that the variation they seek would “rope in” employers providing residential accommodation services for young people who are studying away from home and attending a school, registered and/or accredited under the relevant authority in each state or territory, in regard to employees in the classification of “boarding supervisor” covered by the General Staff Award. Mr Franks explained the purpose of the Application as follows:

“So some of the larger hostels will have a range of other occupations. In this application, we weren't actually proposing to rope in those other occupations. It is just those boarding supervisory occupations that were looking to be included. So the expectations around a cleaner, for example, having anything other than the appropriate award coverage that relates to cleaners wasn't there. It was there to be able to cover the specific roles around boarding supervision and their managers.”²

[15] Mr Franks also detailed that with 11 of the 41 separate stand-alone boarding residences operated through State or Territory governments and a further 8 operated by the Australian Government, through Aboriginal Hostels Limited, there were approximately 20 employers that don't have coverage under the General Staff Award. Mr Franks also proffered that the total number of employees potentially affected was not significant, having put forward an estimate that these 20 employers would have approximately 15 staff.³

[16] IEBA asserts the occupational classifications defining ‘boarding supervision services’ are the same for hostels as they are for boarding schools and identifies the following classifications from the General Staff Award⁴ as being relevant:

- a) A.2.2 Level 2 - Boarding supervision services grade 1:

- b) A.2.3 Level 3 - Boarding supervision services grade 2;
- c) A.2.4 Level 4 - Boarding supervision services grade 3;
- d) A.2.5 Level 5 - Boarding supervision services grade 4.

[17] Mr Franks submitted that despite independent boarding residences varying between small and large operations, the duties and functions of boarding supervisors across the different establishments do not significantly vary and the classifications in the General Staff Award would allow for any variability, depending on the range of activities boarding supervisors are doing.⁵

[18] IBEA outlined that hostels are recognised by the Australian Government's Department of Social Services *ABSTUDY Policy and Assistance for Isolated Children (AIC) Scheme Guidelines* and are identified under the ABSTUDY Policy Manual Glossary establishments providing boarding accommodation for guests, usually in a dormitory where guests share a bathroom and kitchen facilities.

[19] IBEA further outlined that students residing in hostels are only in attendance during the school year. They are funded by Services Australia through ABSTUDY or AIC funding arrangements, with payments made based on the reported number of students in residence at a hostel at set reporting dates.

[20] IBEA indicated that the Hostels provide boarding over a 40-week period of school attendance and proffered that this is the same as boarding schools. It suggested the 40-week period is provided for in clause 14.5 of the General Staff Award, which accommodates the averaging of hours for boarding supervision services employees and argued this clause is not provided for in the *Hospitality Industry (General) Award 2020* (Hospitality Award) or other modern awards. Mr Franks said of the independent boarding residences, "they're not operating as hotels/hostels that have people coming and going. They have the same group of students there for those 40 weeks of every year. They operate around rosters of the same for those that operate inside schools and those that operate outside schools."⁶

[21] IBEA gave the following examples of how the hostels operate:

- a) an extension of a school, such as CASLAU House which is part of Unity College in Murray Bridge;
- b) a private body operating independently of a school, with students in residence attending a range of schools, such as the NRL Cowboys House in Townsville; and
- c) State or Australian Government organisations, such as Wiltja Boarding (South Australia) or Aboriginal Hostels Limited.⁷

[22] Material submitted in relation to Unity College outlined that CASLAU (Central Australian Students Learning at Unity) House provides accommodation in home-stay facilities for up to 15 indigenous students from Areyonga in the Northern Territory. CASLAU House 'parents' supervise the accommodation and are responsible for the provision of meals, establishment of routines, upkeep of the house and liaison with the House Parent Coordinator

and Business Manager. Writing in support of the variation, the principal of Unity College submitted:

“The application to vary coverage of the *Educational Services (Schools) General Staff Award 2020* will unify the expanding landscape of secondary student boarding and Home-Stay services. It will also improve and strengthen the industry workforce, encouraging people to consider boarding as a career pathway with the provision of clear and concise occupational classifications under the modern award.

The student boarding sector providers and employees will benefit greatly from consistency through the provision of a modern award that covers and keeps up with the industry variations in services, covers its employees and providers, and is truly reflective of the unique occupational classifications, roles, and responsibilities exclusive to the student boarding industry.”

[23] NRL Cowboys House is a boarding facility for young Aboriginal and Torres Strait Islander men and women attending 13 partner schools in Townsville. Residents come from remote North Queensland indigenous communities. In the letter in support of the Application submitted from NRL Cowboys House, it was outlined that the ABSTUDY student boarding entitlement is paid to the boarding provider, while the ABSTUDY education fee component is paid to the school and suggested that the only operational difference between independent providers and school boarding facilities is that the independent providers extend student boarding services to multiple schools who do not have boarding attached to their facilities. The letter also suggested that the exclusion from the coverage of the General Staff Award leads to confusion about the coverage for independent student boarding facilities and denial of the benefits of industry consistency.

[24] A letter in support of the Application was also submitted from Torres Strait Kaziw Meta Inc., a non-profit charity that has provided boarding facilities on Thursday Island for outer islands secondary students so that they can attend high school on Thursday Island, the only secondary education available to them in the Torres Strait.

[25] As to the modern awards objective, IBEA submitted that the considerations in s.134(1)(da), s.134(g) and s.134(h) of the Act are relevant. In broad compass, IBEA asserted boarding residences/hostels struggle to find appropriate award coverage for their staff and argued that the awards providing coverage for occupations in hospitality, catering, and community and social services are not specifically relevant to providers of boarding services for school students. IBEA submitted that other than the General Staff Award, there is no specific award coverage that is a good fit for such employers. IBEA also argued that providers of boarding services are essential for the delivery of education to all children in Australia and that a more educated population will generate more employment opportunities, better economic conditions and economic growth.

[26] The Unions confirmed their opposition to the Application in [Submissions dated 26 July 2023](#).

Legislative Context

[27] Key provisions of the legislative framework pertaining to applications to vary a modern award relating to the Care and Community Sector are as follows:

- a) Section 157 of the Act provides that the Commission may make a determination varying a modern award.
- b) Section 617(8) of the Act provides a determination made under s.157(1) that the President considers might relate to the Care and Community Sector must be made by an Expert Panel constituted for the purpose of deciding whether to make the determination.
- c) Section 158 grants an organisation that is entitled to represent the industrial interests of one or more employers that would be covered by the General Staff Award, standing to apply for a variation.
- d) Section 136 of the Act provides that a modern award:
 - must only include terms that are permitted or required by the Act; and
 - must not include terms that contravene the Act.
- e) Section 138 provides that a modern award may include terms that it is permitted to include and must include terms that it is required to include, only to the extent necessary to achieve the modern awards objective.

[28] Section 157 of the Act provides that the Commission may make a determination varying a modern award if it is satisfied that making the determination is necessary to achieve the modern awards objective.

[29] The modern awards objective is defined by s 134(1), as follows:

“134 The modern awards objective

What is the modern awards objective?

134(1) The FWC must ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions, taking into account:

- (a) relative living standards and the needs of the low paid; and
- (aa) the need to improve access to secure work across the economy; and
- (ab) the need to achieve gender equality in the workplace by ensuring equal remuneration for work of equal or comparable value, eliminating gender-based undervaluation of work and providing workplace conditions that facilitate women’s full economic participation; and
- (b) the need to encourage collective bargaining; and
- (c) the need to promote social inclusion through increased workforce participation; and

- (d) the need to promote flexible modern work practices and the efficient and productive performance of work; and
- (da) the need to provide additional remuneration for:
 - (i) employees working overtime; or
 - (ii) employees working unsocial, irregular or unpredictable hours; or
 - (iii) employees working on weekends or public holidays; or
 - (iv) employees working shifts; and
- (f) the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden; and
- (g) the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards; and
- (h) the likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy.

This is the *modern awards objective*.”

[30] Section 134(2)(a) outlines that the modern awards objective applies to the performance or exercise of the Commission’s powers under Part 2-3 of the Act.

[31] The following guidance as to the nature of the Commission’s task in determining an application to vary an award was provided by the Full Bench in *Horticulture Award 2020*:

“[14] Variations to modern awards must be justified on their merits. The extent of the merit argument required will depend on the circumstances. Significant changes where merit is reasonably contestable should be supported by an analysis of the relevant legislative provisions and, where feasible, probative evidence.

[15] Under s.157(1) of the *Fair Work Act 2009* (Cth) (the Act), the Commission may only make the variation sought by the AWU if satisfied that the variation is ‘necessary to achieve the modern awards objective’. The ‘modern awards objective’ is defined in s.134(1) as “provid[ing] a fair and relevant minimum safety net of terms and conditions”, considering the matters at s.134(1)(a) to (h) (the s.134 considerations).

[16] Section 138 of the Act emphasises the importance of the modern awards objective:

‘A modern award may include terms that it is permitted to include, and must include terms that it is required to include, only to the extent necessary to achieve the modern awards objective and (to the extent applicable) the minimum wages objective.’

[17] There is a distinction between what is ‘necessary’ and what is merely ‘desirable’. Necessary means that which ‘must be done’; ‘that which is desirable does not carry the same imperative for action.’

[18] Reasonable minds may differ as to whether a proposed variation is necessary (within the meaning of s.138), as opposed to merely desirable. What is ‘necessary’ to achieve the modern awards objective in a particular case is a value judgment, taking into account the s.134 considerations to the extent that they are relevant having regard to the context, including the circumstances of the particular modern award, the terms of any proposed variation and the submissions and evidence.

[19] Further, the matters which may be taken into account are not confined to the considerations in s.134. As the Full Court observed in *Shop, Distributive and Allied Employees Association v The Australian Industry Group*:

‘What must be recognised, however, is that the duty of ensuring that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions itself involves an evaluative exercise. While the considerations in s 134(a)-(h) inform the evaluation of what might constitute a “fair and relevant minimum safety net of terms and conditions”, they do not necessarily exhaust the matters which the FWC might properly consider to be relevant to that standard, of a fair and relevant minimum safety net of terms and conditions, in the particular circumstances of a review. The range of such matters “must be determined by implication from the subject matter, scope and purpose of the” Fair Work Act.’

[20] In 4 Yearly Review of Modern Awards – Penalty Rates (Penalty Rates Decision) the Full Bench summarised the general propositions applying to the Commission’s task in the four-yearly review of modern awards, as follows:

‘1. The Commission’s task in the Review is to determine whether a particular modern award achieves the modern awards objective. If a modern award is not achieving the modern awards objective then it is to be varied such that it only includes terms that are ‘necessary to achieve the modern awards objective’ (s.138). In such circumstances regard may be had to the terms of any proposed variation, but the focal point of the Commission’s consideration is upon the terms of the modern award, as varied.

2. Variations to modern awards must be justified on their merits. The extent of the merit argument required will depend on the circumstances. Some proposed changes are obvious as a matter of industrial merit and in such circumstances it is unnecessary to advance probative evidence in support of the proposed variation. Significant changes where merit is reasonably contestable should be supported by an analysis of the relevant legislative provisions and, where feasible, probative evidence.

3. In conducting the Review it is appropriate that the Commission take into account previous decisions relevant to any contested issue. For example, the

Commission will proceed on the basis that prima facie the modern award being reviewed achieved the modern awards objective at the time it was made. The particular context in which those decisions were made will also need to be considered.

4. The particular context may be a cogent reason for not following a previous Full Bench decision, for example:

- the legislative context which pertained at that time may be materially different from the Fair Work Act 2009 (Cth);
- the extent to which the relevant issue was contested and, in particular, the extent of the evidence and submissions put in the previous proceeding will bear on the weight to be accorded to the previous decision; or
- the extent of the previous Full Bench's consideration of the contested issue. The absence of detailed reasons in a previous decision may be a factor in considering the weight to be accorded to the decision.

[21] The above observations are apposite to the Commission's consideration of the Application.

[22] Section 578 of the Act is also relevant, it provides:

'In performing functions or exercising powers, in relation to a matter, under a part of this Act (including this Part), the FWC must take into account:

- (a) the objects of this Act, and any objects of the part of this Act; and
- (b) equity, good conscience and the merits of the matter; and
- (c) the need to respect and value the diversity of the work force by helping to prevent and eliminate discrimination on the basis of race, colour, sex, sexual orientation, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin."⁸

(references omitted)

Standing of IEBA

[32] In addition to opposing the Application, the Unions queried whether IEBA has standing to make the Application. Mr Franks confirmed IEBA is a membership organisation providing broad-based advocacy.⁹ Based on the material before us and the support for the Application expressed by a number of employers, we are satisfied that the IEBA falls within Item 3(b) of the table in s.158(1) of the Act as an organisation entitled to represent the industrial interests of one or more employees who would be covered by the Award that would become covered by the General Staff Award if the variation was made.

Should the proposed variation be made?

[33] IBEA has ultimately sought to vary the General Staff Award so that it covers employees employed by standalone boarding residences/hostels providing boarding accommodation to school students (but operating independently of a school) who perform ‘boarding supervision services’ as defined in the definition of ‘general employee’ in clause 2 of the General Staff Award.

[34] Mr Franks, Chief Executive Officer of IBEA, summed up the purposes of the Application as follows:

“The request is a simple one, to create a rope-in clause that would allow those - there's not a large number of them, a small number of residences that exist to do the same work to look after students to have the same award coverage as their colleagues who do that withinside [sic] a boarding school.”¹⁰

[35] The modern awards objective is to ‘ensure that modern awards, together with the NES, provide a fair and relevant minimum safety net of terms and conditions’, taking into account the particular considerations identified in ss.134(1)(a)–(h) of the Act.

[36] As outlined above, the Full Bench stated in *Horticulture Award 2020*:

“Reasonable minds may differ as to whether a proposed variation is necessary (within the meaning of s.138), as opposed to merely desirable. What is ‘necessary’ to achieve the modern awards objective in a particular case is a value judgment, taking into account the s.134 considerations to the extent that they are relevant having regard to the context, including the circumstances of the particular modern award, the terms of any proposed variation and the submissions and evidence.”¹¹

[37] The considerations in s.134, which have been characterised as broad social objectives, do not necessarily exhaust the matters to which the Commission might properly consider to be relevant to a fair and relevant minimum safety net of terms and conditions. We have had regard to the material submitted by IBEA, an organisation which is, by its own admission, not a sophisticated proponent of industrial advocacy. Turning firstly to the evidence and submissions put forward to address the modern awards objective, it may be observed that these were not extensive. IBEA’s submissions regarding s134(1)(da) and s.134(1)(h) were not persuasive but we can accept that the proposed variation would lessen the regulatory burden on hostels by providing a certain, single reference point for the engagement of boarding supervision services employees (s.134(1)(f)), which in turn contributes towards answering the need for a simple, easy to understand, stable and sustainable modern award system (s.134(1)(g)).

[38] The broader material submitted by IBEA makes plain that the provision of boarding services to school students in Australia is discrete and niche and further, that boarding services are predominantly provided in boarding facilities located within a school. In these school settings, the General Staff Award applies and contains classifications for employees performing boarding supervision services with terms and conditions to reflect the work they are required to perform. The only obvious difference that applies to the members for whom IBEA seeks the proposed variation is that they provide boarding services exclusively to indigenous school students in separately located, organisationally distinct settings. In supporting the educational advancement of indigenous children of school age, IBEA members

engage employees to perform functions that are similar to, if not the same as, those performed by employees providing boarding supervision services in schools.

[39] That the General Staff Award has specific classifications for employees performing boarding supervision services and other terms and conditions specifically applicable to them is supportive of an outcome whereby employees performing boarding supervision services in hostels providing residential accommodation for indigenous school students have the same award coverage as boarding supervision services employees in schools. This is particularly so where there is no other obvious, appropriate award coverage for them. We also accept that access to adjusted annual salary arrangements accounting for non-term weeks could have a positive impact. However, the possibility that there may also be other classifications of employees engaged to work in boarding hostels who do not carry out boarding supervision gives rise to some reservation about the consequences of varying the General Staff Award in a way that potentially results in coverage for some employees of boarding hostels, but not all.

[40] Ultimately, we do not consider the Application has been accompanied by probative evidence that sufficiently supports a conclusion that the variation sought is necessary to achieve the modern awards objective. Only a small subset of employer opinion was before us. As such, the number of employees engaged to carry out boarding supervision who would potentially be impacted by the variation was not known, nor was information available outlining their duties. Further, there was no information to inform the Commission as to the current terms and conditions of employment of the range of employees who may currently be engaged in hostels operated by members of IBEA and nor could we determine whether boarding hostel accommodation is provided for secondary school students in other contexts.

Conclusion

[41] There is a distinction between what is ‘necessary’ and what is ‘desirable’.¹² As recounted above, in giving effect to the modern awards objective the Commission is performing an evaluative function taking into account the matters in s.134(1)(a)–(h) and assessing the qualities of the safety net by reference to the statutory criteria of fairness and relevance. For the reasons given, and after weighing the s.134 considerations, we have not been persuaded that the variations contemplated in the Application are ‘necessary’ to achieve the modern awards objective in this case. Accordingly, the Application is not granted.

[42] That said, we do not consider that IBEA should be deterred from making a further application to vary the General Staff Award with evidence that is sufficiently probative to persuade the Commission that any variations subsequently sought are justified on their merits. In this regard it is encouraging to note that IBEA has crossover membership with the Australian Boarding Schools Association (ABSA), that the two bodies work constructively in relation to indigenous boarding students and that ABSA has indicated they could assist IBEA with a future application. This may be contrasted with the disappointing approach the Unions have adopted in this case.



DEPUTY PRESIDENT

Appearances:

G Franks for Indigenous Education and Boarding Australia.

J Kenchington-Evans for the Australian Education Union and Independent Education Union.

T Malone and *N Pefanis* for the United Workers Union.

V Wills for the Australian Services Union.

Hearing details:

2023.

By Video via Microsoft Teams.

16 August.

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¹ MA000076.

² Transcript 16 August 2023 at PN 131.

³ Ibid at PN 142 – 143.

⁴ See clause 13 and Schedule A -Classifications from the *Educational Services (Schools) General Staff Award 2020*.

⁵ Transcript 16 August 2023 at PN 139.

⁶ Ibid at PN 127.

⁷ Aboriginal Hostels Limited (AHL) is an Australian Government organisation described as being an operator of 7 secondary education hostels throughout Australia.

⁸ [\[2021\] FWCFB 5554](#).

⁹ Ibid at PN 184 and PN 188.

¹⁰ Ibid at PN 127.

¹¹ [\[2021\] FWCFB 5554](#) at [18].

¹² [\[2021\] FWCFB 5554](#) at [17].