



## DECISION

*Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*  
Sch. 7, Item 30(4) - Application to extend default period for enterprise agreements made during the bridging period

**The Reepham Hotel PTY LTD, The Balagiannis Family Trust No. 2 T/A Reepham Hotel**  
(AG2023/4927)

### REEPHAM HOTEL/LHMU COLLECTIVE AGREEMENT 2008-2011

Hospitality industry

DEPUTY PRESIDENT ROBERTS  
COMMISSIONER CRAWFORD  
COMMISSIONER PERICA

SYDNEY, 6 FEBRUARY 2024

*Application to extend the default period for Reepham Hotel/LHMU Collective Agreement 2008-2011*

[1] Pursuant to subitem 30(4) of Sch 7 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth), The Reepham Hotel Pty Ltd, being the trustee for The Balagiannis Family Trust No. 2 T/A Reepham Hotel (**the Employer**) has applied to extend the default period for the *Reepham Hotel/LHMU Collective Agreement 2008-2011* (**the Agreement**).

[2] The application is made in accordance with subitem 30(6)(a) on the grounds that subitem (7) applies and that it is otherwise appropriate to do so. Subitem (7) applies if the application was made at or after the notification time for a proposed enterprise agreement that will cover the same or substantially the same group of employees as the agreement and bargaining for a proposed enterprise agreement is occurring.

[3] The United Workers Union, (UWU) which covers employees under the Agreement, supports the application. The Employer met with the UWU on 30 May 2023. On 15 and 16 June 2023, a joint briefing took place for employees, together with representatives of the Employer and UWU, to discuss “some proposed updates to a renegotiated agreement” with the opportunity for UWU and the Employer to receive the employees’ “ideas and feedback”. There have been three bargaining meetings with the UWU on 29 August, 21 September, and 5 October 2023. A notice of employee representational rights has been issued. The UWU notes meetings could not take place during December 2023 because the relevant official was unavailable. Negotiations are expected to resume on 1 and 8 February 2024.

[4] In an e-mail dated 31 January 2024, the UWU stated: “The parties are currently in what we consider to be the final stages of negotiations for an enterprise agreement” to replace the Agreement. The Employer submits “it is anticipated that the negotiation will be complete within the first quarter of 2024 and a new agreement can be drafted and lodged within the requested extension time frame,” which is until 30 June 2024.

[5] The Full Bench in *ISS Health Services Pty Ltd*<sup>1</sup> described the requirements that must be met for an application to extend the default period where bargaining for a replacement agreement is occurring. They are that the application was made at or after the notification time for a proposed enterprise agreement, that the proposed enterprise agreement must cover the same or substantially the same group of employees as the agreement for which the extension is sought and that bargaining for the proposed enterprise agreement is occurring. We are satisfied that each of those requirements have been met in this case.

[6] We are also satisfied on the material provided that it is appropriate to extend the default period. We note in this respect that the Employer contends casual employees (who are the majority of employees covered by the Agreement) are better off under the Agreement than the *Hospitality (General) Award (the Award)*. The Agreement provides a higher penalty loading of 150% for Monday to Friday compared to the Award equivalent, which is 125%. UWU did not take issue with the Employer’s assessment that the majority of the employees are better off under the Agreement.

[7] We consider that an extension until the end of 30 June 2024 is sufficient time for a replacement agreement to be made and approved.

[8] Pursuant to item 30(6) of Sch 7 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth), we order that the default period for the Agreement is extended until 30 June 2024.

[9] The Agreement is published, in accordance with subitem 30(9A)(c), on the Fair Work Commission’s website.



DEPUTY PRESIDENT

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<sup>1</sup> [\[2023\] FWCFB 122](#).