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Tara Moriarty John Hawker
Secretary President



24 March 2017

His Honour Justice Ross
President
Fair Work Commission.

By e-mail: amod@fwc.gov.au

Dear President,

Four Yearly Review of Modern Awards – Penalty Rates - AM2014/305

In its Decision of 23 February 2017 the Full Bench invited submissions from interested parties as to possible further actions by the Commission re the review of Penalty Rates in the *Registered and Licensed Clubs Award 2010* ("the Award").

The Liquor & Hospitality Division United Voice affirms its position as;

- Employees have a right to expect certainty and clarity in their employment. Employers were given ample time since the matter commenced in Dec 2014 to prepare and present argument re penalty rates.
- The Full Bench's decision stated that insufficient merit was displayed by employers to warrant any penalty rate changes. There should be no further opportunity to employers to argue the issue again or any need for the Commission to consider the revocation of the Award. The Decision should be final.
- Employees should not have to contend with the threat of reductions to Award penalty rates and as a result, reduced wages in their employment.
- The Union opposes any Award variations beyond the Decision of 23 February 2017, as any such changes will place considerable financial distress upon employees and could result in reductions to wages.

The attached submissions outline in detail the Union's stance and reasoning on the issues raised by the Fair Work Commission.

Yours sincerely


PEX Tara Moriarty
Secretary

Liquor & Hospitality Division, United Voice



FAIR WORK COMMISSION

Matter No. AM2014/305

FOUR YEARLY REVIEW OF MODERN AWARDS -PENALTY RATES

SUBMISSIONS OF LIQUOR & HOSPITALITY DIVISION, UNITED VOICE, REGARDING THE REGISTERED & LICENSED CLUBS AWARD 2010, - SPECIFIC AWARD MATTERS, RAISED IN THE FAIR WORK COMMISSION DECISION OF 23 FEBRUARY 2017

1. On 24 February 2017, the Fair Work Commission handed down its decision in the Four Yearly Review of Modern Awards- Penalty Rates (Penalty Rates Decision): [2017] FWCFB 1001.
2. There are approximately 1,500 registered clubs in New South Wales, and New South Wales accounts for just under half of all hospitality clubs (49.4%) in Australia and has the largest concentration of clubs relative to the industry. As a consequence the majority of employees in New South Wales accounts for 61.5% of all employment within the industry.
3. The Liquor & Hospitality Division, United Voice ("the Union") is the representative organisation for these club employees in New South Wales.
4. The Union has reviewed the 2 Options expressed by the Full Bench in chapter 7.3.6 of the 23 February 2017 decision.
5. In respect to OPTION 1 we wish to formally indicate, on behalf of our members, our opposition to any efforts or determinations by the Commission that would result in the Registered & Licensed Clubs Award 2010 ("the Club Award") being revoked.
6. The Union is also opposed to the notion of variations to the Hospitality Industry General Award 2010 ("the Hospitality Award") to facilitate the melding of the two industries and their underpinning instruments. Such a hybrid would be inappropriate and unacceptable.

7. The Club Awards (both NAPSA and Modern Award) have a long history of consultative development of industry terms and conditions and achieving industry specific provisions.
8. The revoking of the Clubs Award would undermine such co-operative engagement between stakeholders, to the detriment of employees.
9. The Union strongly advocates for the retention of the Clubs Award in its current format. At no time has there been a proposal or application by industry stakeholders for revocation of the Award.
10. In respect to OPTION 2, the Union affirms that such an option would be inappropriate.
11. Included in Full Bench Hearing was the opportunity for club industry employers to present and test the foundation arguments for award variations being sought to the Club Award penalty rates.
12. It is respectfully submitted that the decision by the Full Bench, concluded there was a lack of merit in the employer's case for the variations sought and so no variations were ordered to the Club Award.
13. The Penalty Rates Common Issue has been active before the Fair Work Commission since December 2014 and it would not be appropriate to afford clubs an opportunity to re-visit the matter, having had such a lengthy time frame to consider and address the matter.
14. There is a need to provide employees and the industry with certainty and to allow employees the ability to earn a decent wage without the omnipresent threat of reductions to employee penalty rates and wages.

Tara Moriarty
Secretary
Liquor & Hospitality Division, United Voice
24 March 2017