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Fair Work Commission
Modern Award Review Panel
Via email to: amod@fwc.gov.au

Fair Work Commission

Matter Number: AM2014/199

Animal Care and Veterinary Services Award 2010 (“the Award”)

Submission

Association of Professional Engineers, Scientists and Managers, Australia (“APESMA”)

Introduction

Further to the Amended Directions of His Honour Justice Ross APESMA makes the following submission in respect of the following matters:

1. Clause 20.4 Public holidays – veterinary surgeons

As outlined in the submission from the Australian Veterinary Association (“AVA”) the current Award does not specify the public holiday rate for work performed on a public holiday by a veterinary surgeon. The reference to the “appropriate public holiday rate” does not specify the actual rate. Other provisions in the modern Award such as Clause 29.2 (h) which deals with public holiday remuneration when Christmas Day falls on a weekend, are arguably not relevant.

The relevant pre-modern award was the Veterinary Surgeons Award 2001 (AP808971 CAV). Clause 20.8 of this award stipulates that the rate of pay for work performed on public holidays was double time. This rate is also the rate contained in the Exposure Draft at Clause 20.4.

APESMA submits that the appropriate rate should be at 250% of the minimum hourly rate on the following basis.

- (a) A number of pre-modern awards were rationalised as part of the Award Modernisation process which led to the establishment of the current Award. In addition to Veterinary Surgeons the new Award also covers such groups as Veterinary Nurses, Animal Attendants and Receptionists, etc.
- (b) Whilst it doesn’t appear that the issue of the “appropriate public holiday rate” for Veterinary Surgeons was a matter which was specifically canvassed during proceedings it is submitted that the payment for the working of unsocial, irregular or unpredictable hours on a public holidays should be standard for all persons in the industry who incur the same inconvenience. It does not appear that there is anything different to the inconvenience experienced by Veterinary Surgeons which would justify payment of a different penalty rate.

- (c) In this regard it may be more appropriate to treat this matter as a proposed variation to the Award rather than as part of the consideration of the Exposure Draft. This would for more a detailed examination of the merits of the issue

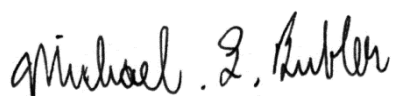
2. Overtime Rates

APESMA proposes a variation to Clause 16.2 which covers compensation for additional hours worked in addition to 38 hours per week.

The variation consists of the deletion of existing 16.2 (c) and its replacement with new sub-clauses (c), (d), (e) and (f). APESMA will submit that the existing sub-clause (c) is vague and imprecise and that the proposed variations will facilitate the more effective of the overall clause including protection of accrued entitlements upon the termination of employment.

“16.2 - Veterinary surgeons

- (a) Employers will compensate associates for time worked in addition to 38 hours per week, except when the associate is on call, either by:
 - (i) granting special additional remuneration at the employee’s ordinary rate; or
 - (ii) granting time off instead of payment on an hour for hour basis, if agreed by the associate.
- (b) An allowance instead of some or all of the amounts otherwise payable under clause 16.2(a) may be paid where the associate and employer reach agreement. The allowance and any other payments for extra hours are not to be less than would otherwise have been payable under clause 16.2 (a) calculated over a calendar year.
- (c) Provided that in the event of termination of employment prior to completion of a year the salary paid during such period of employment will be sufficient to cover what the employee would have been entitled to if all award entitlements had been complied with.
- (d) The employer will keep a record of hours worked by the employee which will show the date and start and finish times of the employee. The record will be kept at the place of employment for a period of at least six years.
- (e) The employee may be represented in the discussions in relation to the making of an Agreement under this clause by either their union or nominated representative and any agreement reached under this clause must be recorded in writing and a copy retained by the employer.
- (f) The compensation and/or remuneration will be reviewed annually to ensure that it is set at an appropriate level having regard to the factors listed in this clause.”



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