

From: Victor Lin <victor.lin@afei.org.au>
Sent: Wednesday, 27 November 2019 4:44 PM
To: Chambers - Ross J <Chambers.Ross.j@fwc.gov.au>
Subject: AM2019/4 - 4 yearly review of modern awards--Pest Control Industry Award 2010 -- Substantive claims

Dear Associate,

RE: AM2019/4- 4 yearly review of modern awards—Pest Control Industry Award 2010 — Substantive claims

The following submission is made pursuant to the request of President Ross during the hearing in relation to the *Pest Control Industry Award 2010* on 27 November 2019 concerning clause 23.2 of the *Pest Control Industry (Victoria) Award 2000* (the Victorian Award), which stated:

“The pay rate for annual leave is the employee’s pay rate at the time the employee takes the annual leave, plus 17.5% of the rates prescribed in the award for the classification in which the employee was engaged immediately prior to the employee proceeding on leave...”

It is AFEI’s position that the words ‘pay rate’ and ‘rates prescribed in the award for the classification in which the employee was engaged’ both refer to an employee’s base rate of pay pursuant to Clause 15.3. This was however disputed by the AWU. AFEI has been invited to provide a further written submission addressing whether there is a particular reason for the difference in wording.

The reason for the difference in wording is not apparent. This could however have been for efficiency purposes to avoid unnecessary length, and ease of reading/understanding the provision. For example, the following phrasing (having the same effect) would be awkward and difficult to read:

“The pay rate for annual leave is the employee’s rate prescribed in the award for the classification in which the employee was engaged immediately prior to the employee proceeding on leave, plus 17.5% of the rates prescribed in the award for the classification in which the employee was engaged immediately prior to the employee proceeding on leave....”

AFEI maintains its position that the Victorian Award did not prescribe payment of a leading hand allowance during periods of annual leave.

Kind regards,

Victor Lin | Workplace Relations Consultant

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