



Reference: 11/C56/RH:DT

23rd November 2011

C I R C U L A R

To: All RailCorp Members

Re: RailCorp Train Crew Reform – Update No.5

As members were advised in update No 4, RailCorp and the RTBU appeared in Fair Work Australia (FWA) yesterday – 22/11/2010 for a directions hearing regarding RailCorps application to FWA seeking arbitration on the following matters:

1. What constitutes ‘ conditions of employment under the agreement’, as referred to on clause 14.1(c) of the 2010 EA?
2. Whether the terms of clauses 135.2 and 136.1(k) of the 2010 EA prevent RailCorp from implementing the Sectorisation proposal as a matter of managerial prerogative (as recognised by clause 14.1(a) of the 2010 EA) subject to compliance with the consultative process in clause 8 of the 2010 EA; or whether clauses 14.2 to 14.4 of the 2010 EA are applicable to the sectorisation proposal?
3. Which of the clause 126 or clause 127 of the 2010 EA applies to Drivers when they are required to travel to another location (and return within the day) other than their home station to conduct work?
4. Whether the reference in subclause 126.1 of the 2010 EA to “relief Employees” should be read to cover Drivers or Guards?
5. Whether clause 127 of the 2010 EA or clause 3.2.1 of the Guards Rostering and Working Arrangements document of December 2008 (referred to in clause 14.1(d) of the 2010 EA) requires that travel is actually incurred prior to payment of travelling time.

The RTBU opposed RailCorps Application to go straight to Arbitration as the RailCorp EA 2010 clearly provides for Conciliation to occur prior to Arbitration, unless both parties agree to go straight to Arbitration, which the RTBU had not agreed.

FWA supported the view that the EA provided for Conciliation to occur before Arbitration and as such did not agree with RailCorps application to skip Conciliation and go straight to Arbitration.

RailCorp would have preferred for Conciliation to occur straight after the hearing but the RTBU argued that we needed to arrange for a number of Delegates to be involved in the Conciliation when it occurs and thus could not start Conciliation straight away.

FWA understood our wish to have Delegates in attendance for the Conciliation and as such has set down Wednesday 30th November as the date for Conciliation. Further FWA has penciled in the 23rd, 24th and 25th January as the dates which Arbitration could occur, subject to a number of matters including the outcome of the Conciliation process.

Members will be kept informed of developments as they occur via RTBU Locomotive Division -Train Crew Reform Update Circulars which are also placed on www.locoexpress.com.au in the "My Employment Conditions" Campaign Button.

Yours fraternally

ROBERT HAYDEN
DIVISIONAL SECRETARY