



RTBU NSW

NEWSFLASH

LOCO DIVISION

August 1, 2023

Fair Work Commission Update & Stopping Industrial Action

This evening we received the Fair Work Commission's decision dismissing our section 424 application. Obviously, this is a disappointing result but it was simply too difficult for the Union to prove the safety allegations with the available evidence and in the short time frames required for applications of this kind.

We hear our members safety concerns, and we continue to take them seriously. We have referred a number of allegations to the Regulator, who will have more time and the appropriate powers to investigate those matters over the coming weeks and months.

Notwithstanding the s424 order not being made, the Commission has created a listing for the parties at the end of the week, and asked Qube to reflect upon its conduct in bargaining so far. The following excerpt from the decision summarises the Union's difficulty in bargaining with Qube:

[67] Given I do not need to assess whether it is appropriate to suspend or rather terminate the protected industrial action, it is not strictly necessary for me to comment on the state of bargaining. However, I intend to do so.

[68] The events following the conference I conducted on 26 June 2023 are extremely disappointing. The RTBU and Qube reached an in principle agreement during this conference which was recorded in writing by the Commission. The parties were provided with this document and agreed to its terms before the conference concluded. The RTBU provided an undertaking around not taking industrial action as part of the agreement. There is no doubt Qube's representatives were provided with an unsealed version of the RTBU's Federal Court claim during the conference and provided with an opportunity to review the document before the in principle agreement was finalised.

[69] To renege on this in principle agreement is highly problematic, but that is one thing. The situation was then made dramatically worse because Qube circulated a Memorandum to employees which suggested 'the RTBU has used an 11th hour legal manoeuvre to undermine a generous in-principle agreement it had reached with Qube'.²⁶ That is simply not what occurred. Qube's conduct has no doubt agitated RTBU members and has contributed significantly to the current industrial situation.

We're hopeful Qube will take these points on board and reflect upon the status of bargaining ahead of the further meeting scheduled before the Commission on Friday 4 August 2023.

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In light of the upcoming Fair Work Commission conference and our ongoing safety concerns the Union is withdrawing the current indefinite strike, with the withdrawal effective from 12:01am Thursday 3 August 2023. Members may wish to return earlier than this, and they can if it is convenient for them.

Members have made their point, with less than 20% of service running during this period of industrial action, and they have demonstrated their collective power. Members will make up their own minds as to the safety of Qube's actions during this period.

Your delegates will review the status of industrial action following our Commission listing this week.

Also, during this recent period Qube has filed an application to vary their past enterprise agreements to try and weasel out of the Federal Court underpayments. We will keep members updated on these proceedings but intend to make an application to strike out at least half of the claim that has no reasonable prospects of success.

Members will continue to be updated as the dispute continues. If you have any questions, please contact your local delegate or RTBU Head Office.

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please contact the RTBU Head Office on (02) 9264 2511.**