

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

CORAM: RITCHIE C.

25 August, 2010

Matter No IRC 884 of 2010

IN THE MATTER OF: Dispute FBEU & NSW Fire Brigades re award breach.

STATEMENT and RECOMMENDATION

[2010] NSWIRComm

- 1 The New South Wales Fire Brigade Employees' Union (the applicant) notified a dispute under section 130 of the Industrial Relations Act, 1996 (the Act) on 20 August 2010 against NSW Fire Brigades (the respondent).
- 2 The dispute was expressed in the following terms :
 - a) This dispute relates to the selection and qualification of Inspectors working in country areas.
 - b) Specifically, the Department is in breach of Clause 7 and 13 of the Award by calling for Station Officers to apply for Country Inspector positions in today's In Orders.
 - c) The parties have dealt with this issue before, which resulted in an agreed policy for filling Country Inspector and Station Officer positions(see Attachment A)
 - d) The Union wrote to the Department advising them of the Award breach advising that the In Order should not be published (see Attachment B)

3 The award involved is the Crown Employees (NSW Fire Brigades Permanent Firefighting Staff) Award 2008 (the award).

4 Ms G Lawrence with Mr G Maniatis appeared for the applicant and Mr Husdell appeared for the respondent.

5 During submissions Mr Husdell brought to the Commissions attention that work bans had been placed by the applicant on particular administrative and managerial duties carried out by Duty Commanders. The work bans should stay in place until further notice by the State Secretary, and that there shall be no catch up of such administrative duties performed at the conclusion of the dispute. Mr Husdell stated that this action was contrary to clause 35.6 of the award.

A copy of an urgent union notice, which expressed the work bans as noted above, dated 20 August 2010, detailing the Country Inspector vacancies dispute was signed by the State Secretary and was marked MFI 1 .

The Commission clearly advised the applicant's representative that it was quite inappropriate for them to place work bans and on the same day notify a dispute to this Commission. Notifying parties should come before the Commission with "clean hands."

6 The respondent is currently experiencing a problem with the filling of an Inspector's position in the towns of Wagga Wagga and Dubbo. The respondent has sought applications from Inspectors and Station Officers with the proviso that if a Station Officer is the successful applicant then

"they will receive an appropriate level of training and mentoring to support the necessary qualification to enable them to undertake the position leading up to the next available Inspectors Promotional Program (IPP)".

Currently the positions are being covered by Inspectors being sent to the two areas to fill in on a temporary basis. That has a ripple effect with other Inspector positions having to be filled at a stated cost of \$6,000 per month. The respondent stated that it had sought interest from current Inspectors to relocate or to apply but had no applicants.

- 7 It was the applicant's submission that to allow Station Officers who have not completed the IPP to fill Duty Commander positions was in breach of clauses 7 and 13 of the award as well as its Own Standing Orders for filling such vacancies. Also clause 13.11 was discussed.
- 8 As explained to the Commission, a Station Officer who seeks to be considered for an Inspectors position first completes a relevant entry test and then completes the IPP. Candidates are then selected on merit.
- 9 Attachment A to the dispute notification was a copy of the *APPOINTMENTS- Guidelines for the allocation of unfilled Country Station Officer and Inspector positions.*

This consent document expresses in some detail the steps to be taken when seeking to fill particular country vacancies.

- 10 The Commission was advised that the next pre entry test is to be held in October 2010 and the next IPP listed for March 2011.
- 11 The last pre entry test was carried out in February 2009 and the Commission was advised that the Wagga Wagga vacancy occurred in January 2010 ie less than 12 months later.

- 12 It should be noted that the Commission felt both parties were genuinely seeking to find a solution to this issue but were in disagreement as to the method which would result in the filling of the two vacancies.
- 13 Options were separately raised by each party and discussed off record through the Commission with the other party.
- 14 In consideration of what was expressed today by both parties my preliminary view is that for a Station Officer to be considered for the position of a country Inspector, the Station Officer must have completed both the Pre-Entry Test and the IPP prior to appointment. The content and format of the IPP shall be specified by the Commissioner of the Fire Brigade following consultation between the respondent and the applicant.
- 15 I believe at first instant two actions must take place and I make the following Recommendations.

1. That immediate action is to be taken by the State Secretary of the applicant to cease all work bans forthwith and that the administrative work not completed due to the work bans be now completed.

2. That the respondent take immediate action to withdraw the advertisements (with respect to the Wagga Wagga and Dubbo Inspector vacancies) as found in In Orders 2010/18 dated 20 August, 2010.

3. That I direct the two parties to confer and to report back to this Commission on Monday 30 August 2010 at 10.00am for a further compulsory conference.



D.RITCHIE
COMMISSIONER