



Fire & Rescue NSW

File Ref. No: FRN12/26
TRIM Ref. No: CC12/663

10 December 2012

Mr Jim Casey
State Secretary
Fire Brigade Employees' Union of NSW
1-7 Belmore Street
SURRY HILLS NSW 2010

Dear Mr Casey

I write in relation to SITREP 46/2012 and the associated '*Temporary station closures and appliances offline (TOLing): Advice and instructions for permanent members*' document.

I would like to clarify an incorrect comment made in that document, specifically in relation to "move ups":

- A "move up" is not a concept expressed in the *Crown Employees (Fire and Rescue NSW Permanent Firefighting Staff) Award 2011* (the Award);
- Fire & Rescue NSW (FRNSW) does not agree that a "move up" is transformed into a "stand by" pursuant to the provisions of Clause 12 of the Award;
- A "stand by" concerns an individual firefighter directed to perform a period of duty at another station, but starting and finishing duty at their permanent station. The firefighter working a "stand by" travels to an alternate work location either using their private vehicle or by transportation provided by FRNSW, (e.g. taxi);
- A "move up" concerns the entire crew of a station travelling in a fire appliance to another station;
- There is nothing expressed or implied in the Award to indicate that a "move up" can or should be considered an outduty, which is a period of relief worked by an individual where they finish duty at a station other than their permanent station.

To be clear, fire crews directed to perform a "move up" will not be regarded as having completed an outduty; will not count as one of the 12 outduties that the firefighter can be directed to perform in a calendar year; and will not attract any relieving or kilometre allowance.

Yours sincerely

Greg Mullins AFSM
Commissioner



File No: FRN 12/
TRIM Ref: CC12/

18 December 2012

Mr Jim Casey
State Secretary
Fire Brigade Employees' Union
1-7 Belmore Street
Surry Hills NSW 2010

Dear Mr Casey

Re: Current Ban and Limitations

I note the union's SitRep 48/12 contains instructions to members in relation to move-ups, outduties and stand bys, which essentially ban normal operational practices (move ups) and breach Award conditions in relation to outduties and stand bys. On any measure, this is industrial action.

The Memorandum of Deputy Commissioner Jim Smith of 4 December 2012 to Permanent Firefighters and my letter to you of 10 December 2012 represent the longstanding practices and Award requirements accurately.

The attempt to pose a new definition for 'move up' and to redefine stand bys and outduties within a SitRep is, in my view, simply a contrivance to attempt to justify this industrial action and maximise the adverse impact on the operational capability of Fire & Rescue to meet community needs.

TOLing so as to avoid the unnecessary payment of overtime has been occurring as required, since 19 November 2012. The issues you now raise in connection with the bans and limitations were not contended in IRC Matter 829/2012 over the 7 months (July to November 2012) that matter has been before the Industrial Relations Commission of New South Wales (IRC).

In these circumstances, I have sought the assistance of the IRC today in relation to this industrial action. I remain willing to discuss the underlying issues you contend, subject to all bans and limitations contained within SitRep 48/12 being lifted.

Yours sincerely



Greg Mullins AFSM
Commissioner





19 December 2012

Mr Greg Mullins AFSM
Commissioner
Fire and Rescue NSW
PO Box A249
SYDNEY SOUTH NSW 1232

Dear Mr Mullins,

I write in response to your two letters of 10 and 18 December 2012 concerning the Union's various advice and instructions to members concerning move ups, stand bys and outduty, as set out within SITREPs 46 and 48 of 2012.

The Union acknowledges that there is no Award definition for "move up" and further, that SITREP 48's definitions for "stand by" and "outduty" are not strictly in accordance with those provided by the 2011 Permanent Firefighting Staff Award. They are in fact more generous, affording the Department flexibilities that the Award does not. It follows that the Union has not considered its instructions to constitute industrial action.

The parties are agreed that the Award makes no provision for a move up, as distinct from a stand by. The parties are not, however, agreed on the unsupported assertion by the Department that a stand by concerns only an individual firefighter, nor does the Union accept that the use of an "entire crew" somehow waives the Award's stand by provision.

The Department can call these movements whatever it likes but doing so does not alter their status as stand bys under the Award. Unlike other Award provisions which expressly recognise and make allowance for emergency incidents (for example, subclause 8.11), the Award makes no such allowance for stand bys, which remain "a period of duty up to and including four hours".

The parties are therefore also agreed that the Award makes no provision for a stand by which exceeds four hours to be considered an outduty, but only because there is no provision for a stand by to exceed four hours at all. Rather, a stand by which exceeds four hours constitutes an Award breach for which the Department is liable to prosecution.

I note your offer to discuss "the underlying issues" subject to the Union lifting its SITREP 48/12 instruction. I confirm that the Union is willing to do both, but in view of the above invite you to first consider and confirm if lifting that instruction is indeed what you want.

Yours sincerely,

Jim Casey
State Secretary

Fire Brigade Employees' Union (FBEU)

1-7 Belmore Street Surry Hills NSW 2010

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