

1st September 2015

Volume 3 Number 11

UFU OF AN AVIATION BRANCH Newsletter



THE FACTS BEHIND THE MYTHS

Court Applications – Rest Relief, Higher Duties at FSM Rank and Hours and Overtime at Courses and Workshops

As members are aware from previous newsletters, your Union has filed applications in the Federal Court to sort out the interpretation of certain clauses in your EA. Those applications relate to the correct remuneration for members performing higher duties at FSM rank, the application of the Rest Relief provisions [No 8 hour break – clause 4.7 of EA] and the correct determination of hours worked and payment of overtime while you are attending courses and workshops.

Despite the myth perpetrated in “Mythbusters” in the August 21 edition of The Monitor, your Union has put considerable effort into resolving these issues with ASA/ARFF without having to seek the assistance of an outside tribunal. Considerable correspondence has been exchanged between the parties and the matters have been raised at consultative council meetings and the Branch Secretary and Branch President participated in a teleconference on the issues. The applications to the Court were filed as a last resort after all other attempts to resolve the issues failed.

Your Union was contacted by ARFF on 16th July, some five weeks before a “Directions Hearing” in the Federal Court. ASA/ARFF proposed that if the Union was prepared to withdraw its applications or put them on hold it was prepared to enter into discussion on the matters. Your Union indicated that there was ample time before the Directions Hearing for the parties to have discussions but there was no need at this stage for the Union to withdraw or put its applications on hold.

On 17th July your Union sent an email to ASA/ARFF stating that “as always the Union is available to discuss matters with Airservices/ARFF.”

On 21st July ASA/ARFF sent an email to your Union again proposing that its applications be put on hold to allow discussions to occur. On 23rd July, still one month out from the Directions Hearing, your Union reiterated its position that it remains available to have discussions with ASA/ARFF on the issues and that the Union’s applications were not an impediment to discussions occurring.

Your Union was prepared to enter into further discussions with ASA/ARFF and if the discussions proved fruitful would have been prepared to suspend or withdraw its applications in the Court. There has been no further response from ASA/ARFF. These issues could have been dealt with more quickly and more cheaply but unfortunately that has not been possible.

On 17th August the Court made orders for:

- The filing and serving of documents by 28th August.
- If inspection of any records is necessary, inspection to take place before 11th September.
- Mediation of the matters to occur as soon as practicable.
- If the matters aren't settled at mediation the parties notify the Chambers of Judge Jones immediately after mediation to make directions for the further conduct of the proceeding, including listing the proceeding for final hearing.
- To assist the Chambers of the Judge, the parties must at least 7 days before the Mediation, confer with each other and advise the Court of the estimated length of the final hearing.

Your Union will provide updates on the progress of these matters as they occur.

Branch Committee of Management Delegates – Attendance at Annual Conference

For some years now your Branch Committee of Management Delegates have been given an unconditional release from duty to attend the annual BCOM Conference. This year your Union was advised that their release was contingent upon no overtime being used to cover their absence. It was rumoured that the only way Delegates would be released was to take rec leave and then, leave would only be granted if no overtime was required to cover the leave. A letter was sent to the EGM asking for clarification of the situation and pointing out that in previous years there were no conditions attached to the release of our Delegates.

The EGM replied that ARFF's position was reasonable and compliant with the provisions of the EA and went on to say that, "Importantly, the manner in which the UFU have chosen to deal with other current issues has signalled to us that the management of issues via strict interpretation of the EA is the preferred modus of operation for the UFU. We have thus taken a similar approach to this matter." While ARFF's position may be compliant with the EA, this response clearly spells out it was taken in retaliation to your Union's applications in the Court.

It is wrong to suggest that your Union's action in pursuing some issues through an outside tribunal is its "preferred modus of operation." Such actions are always a last resort when all other efforts have failed and your Union will, as usual, try to resolve all issues at the lowest level in the first instance.

Your BCOM Delegates are doing whatever is necessary to attend our Conference later this month to ensure members from all Units are represented.