



FairWork
Commission

RECOMMENDATION

Fair Work Act 2009

s.739 - Application to deal with a dispute

Transport Workers' Union of Australia

v

Linfox Australia Pty Ltd T/A Linfox

(C2020/5344)

COMMISSIONER LEE

MELBOURNE, 22 DECEMBER 2020

Alleged dispute about any matters arising under the enterprise agreement and the NES;[s186(6)]

[1] On 10 July 2020, the Transport Workers' Union of Australia (the Applicant) made an application under s.739 of the *Fair Work Act 2009* (the Act) for the Fair Work Commission (the Commission) to deal with a dispute. The Respondent to the application is Linfox Australia Pty Ltd T/A Linfox (the Respondent).

[2] Numerous conferences have been held at the Commission aimed at facilitating a resolution between the parties.

[3] After the discussions during the conference process before the Commission, at the most recent conference on 22 December 2020 the parties reached a settlement of the matters in dispute.

[4] The terms of settlement of the dispute are as follows:

1. Any driver who was not provided with 35 hours of work in any week during the 2020 COVID-19 pandemic lockdown will receive payment by the company for a minimum of 35 hours, provided the driver was ready, willing and available to perform the work.
2. All Fuels drivers in Victoria, who were provided less than 35 hours' work each week during the 2020 COVID-19 pandemic lockdown will be back paid for any shortfall between hours worked and 35 hours in any week.
3. Notwithstanding the commitments in paragraphs 1 and 2 above, drivers who took approved leave during the 2020 COVID 19 pandemic lockdown will have that leave counted towards their ordinary hours in that week.
4. On the basis of the above agreement the TWU will file a Notice of Discontinuance in Matter No. C2020/5344 and confirm that there will be no further claims in relation to this issue and or the content of the TWU's application.

[5] I have had extensive involvement through the various conferences conducted in this matter since the application was lodged and have a detailed understanding of the core issues in the dispute. I am satisfied that this settlement is a reasonable one with which both parties can be satisfied and strongly recommend that the parties commit to the terms and abide by them.



COMMISSIONER

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