

IN

**FOUR YEARLY REVIEW OF THE FAST FOOD INDUSTRY AWARD 2010**

**(APPLICATION BY AUSTRALIAN INDUSTRY GROUP)**

**OUTLINE OF CONTESTED FINDINGS**

1. The Fair Work Commission directed the Retail and Fast Food Workers Union Incorporated (“RAFFWU”) to file a summary outlining those findings sought by the Applicant which are contested by RAFFWU. Paragraph references are those paragraph numbers in the amended findings document served by the Applicant and dated 9 July 2018.
2. The findings at paragraphs [1] to [5] are contested on the basis the finding is of the “fast food industry”. MFI-1 speaks for itself and does not represent the “fast food industry”.
3. The finding at paragraph [8] is not contested. However, the unquantified nature of the finding, in particular the use of the imprecise word “some”, means that the finding is of low or no relevance.
4. The finding at paragraph [9] is contested. The estimate is assumed, in circumstances where actual data is available and was not obtained.
5. The finding at paragraph [10] is contested, noting the use of the word “large”.
6. Paragraphs [11] to [17] deal with the first claim.
7. The findings at paragraphs [18] to [22] are contested on the basis they seek a finding for the “the fast food industry” generally, rather than for the limited outlets identified in evidence. For such findings to be made in relation to the whole of the “industry”, such findings must first be made for the specific outlets identified. If such findings were made, the Commission must then identify a proper basis for extrapolating from those

findings to the whole of the fast food industry. Further, the findings sought for the limited outlets noted in evidence is of low or no relevance to the proceeding.

8. The finding at paragraph [18] is contested to the extent it purports to identify the main, major or all factors taken into account in the preparation of crew rosters, when the factors identified are not all, nor necessarily the major or main, factors that are taken into account
9. The finding at paragraph [19] is of low or no relevance.
10. The finding at paragraph [20] is contested noting the use of the word “significantly”.
11. The finding at paragraph [21] is contested, because it uses the unqualified term “commonly”. There is no evidence of that fact, nor is the word “commonly” of assistance because it is vague and imprecise.
12. The finding at paragraph [22] is contested, because of the use of the word “many”. There is no evidence of that fact, nor is the term “many” of assistance because it is vague and imprecise. We reserve our position to the extent the last sentence of paragraph [22] purports to be a finding.
13. The finding at paragraph [24] is contested.
14. The finding at paragraph [25] is contested.
15. The finding at paragraph [26] is contested.
16. The findings at paragraphs [27] to [29] seek a finding for “some” employers in “the fast food industry”. Such a finding is of low or no relevance to the proceeding.
17. The finding at paragraph [27] is contested, because it uses the word “some”. The evidence is that “three employing entities which employ 301 employees representing less than one fifth of one percent of employees in the industry” have expressed this opinion
18. The finding at paragraph [28] is contested, because it uses the word “some”. The evidence is that “three employing entities which employ 301 employees representing

less than one fifth of one percent of employees in the industry” have expressed this opinion. We note the typographical mistake at the first “employees”.

19. Further, the evidence identifies a further significant reason why some employers employ casual employees.
20. The finding at paragraph [30] is contested, because it uses the word “some”. The evidence is that “three employing entities which employ 301 employees representing less than one fifth of one percent of employees in the industry” have expressed this opinion.
21. The finding at paragraph [31] (b) is contested.

RAFFWU

18 July 2018