

IN THE FAIR WORK COMMISSION

Matter No: AG2014/5121

Applicant: **METROPOLITAN FIRE AND EMERGENCY SERVICES BOARD**

Section 225 Application for termination of enterprise agreements after their nominal expiry date

WITNESS STATEMENT OF PAUL JOHN RILEY

I, Paul John Riley, Assistant Chief Fire Officer (**ACFO**), with the Metropolitan Fire and Emergency Services Board (**MFB**), South East Metro Command, in the State of Victoria, say as follows:

1. I have been employed by the MFB for nearly 41 years. I currently hold the rank of ACFO and I have held that rank and equivalent ranks for 27 years. I am a Member of Institute of Fire Engineers.
2. I oppose the MFB's application to terminate the Operational Staff Enterprise Agreement 2010 and the Assistant Chief Officers Enterprise Agreement 2010.
3. My main concerns with the termination application are:
 - The loss of consultation committees, especially rostering
 - Loss of commitment for seven on the fireground

Firefighters and Trust in the MFB

4. I am concerned for the damage to the organisation that has been caused by the MFB's application to terminate the agreements and that it will continue to cause. That damage will in my view be exacerbated if the Fair Work Commission terminates the Agreements. I make these observations on the basis of my own observations and discussions with operational employees

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across almost all ranks in the period since the MFB announced its decision, and in the last few weeks especially. I visit approximately 10 fire stations a week and speak with all ranks in the stations. The trust and confidence of operational staff in their employer has been prejudiced by the application itself.

5. The great majority of firefighters enter into an understanding, or compact, with the MFB on employment. They commit to providing loyalty, service, to help the community and look after each other and in return receive security of employment, appropriate conditions, care and a safe working environment. This extends to the families of firefighters who because of the nature of the work are integral to the MFB's operational success. Central to this compact is trust, and trust is an essential element in the work and career of firefighting. The compact is not just about terms and conditions, it is also about trust and the relationship between those who put themselves in harms way and those responsible for giving them direction to do that.
- 6.. The organisational damage I have seen began with firefighters expressing their bewilderment and disbelief to me and asking how such an application could be made by the MFB given the current signed agreement. Since then firefighters have asked me why the application has been made. The main answer I have received from MFB is because the Act has a provision that provides for it and that a number of clauses are not legal or are not workable. For my part I cannot see that this view justifies the termination of the entire agreement. As a senior manager I am placed in a difficult position. On one hand I see the detrimental impact of the decision to seek termination, not to mention actual termination, on the trust and relationships within the organisation. I also consider that the termination of the agreements will make my management role in the brigade more difficult. On the other hand as a manager I have no coherent basis upon which to explain or support the decision to seek termination of the entire agreements.

7. In May 2014 I attended a senior officers meeting at which ACFOs were present. We were told that we were expected to support management in respect of the decision to seek termination of the agreements by Deputy Chief Officer Stacchino. In response to questions about the lack of logic in making such an application, and doubts about the decision, we were advised to trust the decision. In my discussions with firefighters I generally avoid expressing any view on the matter.
8. In an operational sense and while in direct contact with the community in the short term the breach of trust will not affect performance. However this is itself part of the abuse of trust involved. The most senior management of the MFB who made this decision rely upon the commitment of firefighters to ensure that front line service will not suffer. Hence community safety is not immediately affected. Other business over time will. On the basis of my experience I consider that staff will suffer psychologically by the loss of the certainty, security and the confidence in the working environment that key agreement provisions currently provide, and the workplace will become quite a negative environment. Were the agreements terminated I consider that staff would become more restless, there would more angst and there would be a pattern of passive lack of co-operation with senior management initiatives and a reluctance to do the extra bit that is offered in a properly functioning workplace.. In the longer term this will impact on performance. The provisions concerned in this regard include the consultation arrangements.

The importance of detailed consultation

9. In my view, not having the ability to properly consult will lead to the reduction of input and specialised knowledge into proposals and ideas. Consultation in the context of the firefighting industry has special significance and properly extends well beyond those matters that might be said by management to involve significant changes.
10. Difficulties have arisen when MFB concepts, policy and projects are presented as fait accompli rather than a proposal to be developed and over which consultation is proposed.

11. In my experience informal discussions and problem solving with the UFU and representatives frequently leads to a resolution of issues and disputes, and once the matter has been resolved, even if a firefighter may not be happy, the solution sticks. In situations involving welfare considerations on such matters as transfers, in my experience the UFU and representatives on the Transfer Committee under the Agreement perform an invaluable job in ensuring claims are fairly considered and all relevant issues canvassed. This level of co-operation on a routine basis is the product of a set of relationships supported by a formal consultation and disputes process. I am concerned that in the absence of that structure under the agreement the co-operation in resolving the myriad of local, but nonetheless important, issues will be prejudiced or withdrawn.

Crewing

12. The establishment of the requirement for seven on the fireground has been developed from experience and risk assessment. I was at Malvern in the 1970s as a firefighter and we went to a not yet under control carpet factory fire. There were four appliances with eight people, including the District Officer which is the equivalent of the Commander now. We were there for about five hours and when we arrived back at around half past four in the morning there was a truck at the station that had moved up to maintain the fire cover.
13. On return we were greeted with 'where have you been and we haven't got enough beds' as they had six on the truck from HQ, where we were working so hard. Essentially because of ad hoc crewing arrangements we had sent spare people into town to put six on an appliance where they don't need it, and left two people per appliance to fight the fire.
14. I have fought a few fires with just two people first up and it I say " it is not a nice workplace". This is before health and safety considerations and risk assessments is what it is now. We didn't have the firepower in the truck. We did a lot of running the water from the hydrant to the fire. It wasn't worth going through the truck because the truck didn't have the fire power.

Appliances

15. Appliances were improved to the Mark 2 pumper and have kept on being improved. I have seen through the committee structure the input of both management and employees into the design, specifications and roll out of these significantly improved appliances. What has been important in each case has been the opportunity for careful consultation about the new equipment that results in firefighters having trust and confidence in the product for use in their hands on the fireground. This consultation extends to critical issues such as safety in manual handling; fit for purpose assessment; adequacy of associated training and incorporation into existing systems.

E-Roster and AIRS2

16. Two projects in which I have been involved demonstrate the effectiveness of consultation. Both the E-Roster and the AIRS2 projects involved effective consultation. In both of these cases we have had robust discussions regarding the projects but the end result has been very satisfactory because it has gone through the process and been improved as a result.
17. The AIRS2 project involved the development of templates for purpose of fire reporting. The Australian Fire Authorities Council has developed a programme of statistical collection of fire reporting. I was responsible for the development of templates to be used for reporting on particular classes of fire (e.g. car, shed, pole) rather than in each case using the full reporting instrument. The input from firefighters and UFU was constructive and valuable in this process. In the absence of any difficulties the proposal did not even go to the consultative council.
18. The E-rosters project involved the establishment of computer generated rostering system that is linked to the MFB's main SAP computer system. The project extended over about four or five years and was implemented in 2011. I was largely responsible for the management of the project. The proposal was progressed through and routinely considered by the Rostering Sub Committee of the consultative committee. The project required the development of a complex set of rules and instructions for rostering. Modelling was undertaken on stations with skills

matching and crewing numbers. The UFU and firefighters were fully involved in the project. This enabled important contributions to be made and facilitated the ownership of the system by staff. Rostering is one of the most difficult employee relations issues to address and the adoption of the E-rostering system through consultation resulted in a major improvement in MFB's capacity. The capacity for the rostering to link with the SAP system is illustrated by the recent promotion of 16 SSOs. Their promotion was automatically recognised by the E-rostering system the following day and rostering adjusted to reflect the changed rank profile. Under the previous system such a change was reflected monthly.

Rostering and LFF Numbers

19. Another example of effective consultation is back in the early 2000s, one of the EBs said that you went from 350 Leading Firefighters and you would increase by 150 Leading Firefighters (LFF's) each year until the MFB reached 800 LFFs. After this period it became uncapped.
20. I was the chairman of the Rostering Committee that oversaw this increase of 350 to 800 LFF over three years. On the Rostering Committee from the UFU were Tony Scully and David Hamilton. We spent many hours in discussions on how we were going to achieve this increase, developed a plan for the process, made up a one page dissertation on it and then an individual letter of offer, and then kept to this process for the three years.
21. Part of this process involved people changing zones and platoons. For example someone might be in Southern Zone at Oakleigh. We would tell them there is no position vacant on your position in your zone however if you went into Central Zone in your platoon there was a vacancy. Other people were asked to change their zone and platoon. Members were able to accept or refuse the offer.
22. Over this time, not one appeal or grievance was made against this process. It was very well done. The consultation process that was applied at that time was in substance the same as that presently used on a regular basis.

Zone to District Restructure

23. In the time of the current EB, we went from Zones to Districts to align MFB to regional arrangements applying in other Government agencies. This involved stations within a Zone going over to another District. For example Central Zone downsized and we had to make sure that people who were on a sector vacancy list were not disadvantaged. This was done through the Rostering Committee with Dave Hamilton, Danny Ward and Tony Trimble.
24. Although the Rostering Committee reported to Consultative Committee under this Current EB, we were not restricted from getting on with the job that was needed to be done.
25. Moving from Zones to Districts was a highly contentious issue. We examined the waiting list for moving personnel of all the ranks and established relevant criteria for each station that would be affected.
26. Any issues caused by the moves were referred to a management and UFU review tribunal. We established for the purpose. They dealt with the issues in a timely and efficient manner.
27. In approximately the late 1990s there was a change from District to Zones where there was no committees or tribunals set up by agreement and there were a lot of discontented members resulting from this process. If you complained, you had nowhere to go
28. As a comparison, the move back to Districts with the committee and the tribunal resulted in much less discontent. Employees were listened to if there was an issue they had faith in a process established by agreement between management and the UFU.

Business as Usual

29. Management only seems to get involved where there are complaints or grievances, the many things that tick along in the background seem to be ignored or get forgotten.(e.g. the Zone restructure and LFS 350 to 800)
30. I have had Dave Hamilton on committees for over a decade and I have found him to make very useful contributions. I have also worked with Danny Ward, Chris Cleary and Tony Trimble. I

have found these representatives were able to participate in the consultation process constructively.

Rostering Committee and RADAP

31. I currently sit on the Rostering Committee and Resources and Deployment Advisory Panel (RADAP).
32. The Rostering Committee looks after all matters regarding rostering. If rostering comes out of the EB, there will be no safety valves in the system. These checks and balances, and the ability for someone to be able to raise concerns about their work allocation, are important for ensuring that there are enough resources at the proposed station such as beds, and that all matters are considered when rostering decisions are made including skill sets.
33. The RADAP Committee amongst other matters deals with station design, station modifications and refurbishment. We currently have station design guidelines that set the standard however these need to be adjusted for refurbishments for the individual station.
34. The infrastructure personnel get the plans drawn up, and are then required to consult with the end user representatives who have to get the collective opinion of the station regarding the design and what is needed.
35. If there was no obligation to consult with end users, there would be limited opportunity for continuous improvement.

FOAM

36. A further example of effective co-operation and consultation with the UFU and representatives has been the selection of foam for firefighting use. In early 2000 the manufacturer of a foam known as "AFFF" ceased its production largely because of its environmental impact. By default I was tasked with the role of finding a replacement. Over an extended period various products were trialled with live fire at the Longford training Ground. A product, Solberg 3%-6% was ultimately selected, although another product Tridol was also trialled, but was not preferred by

those involved because of its environmental impact. I engaged with the UFU at the outset of this project. Dave Hamilton, Chris Cleary and Tony Trimbell represented the UFU over the trial and actively cooperated in the trial process to select the safest and most effective foam replacement and to test different methods of foam application. That close consultation on such an important matter ensured a smooth introduction of the new product

MFB Resource Allocation

37. The MFB has an established resource allocation and crewing system relied upon by all operational staff to perform their various functions. This system is the product of a range of factors including:
- Fire station location and appliance distribution by reference to risk analysis ;Location established by reference to a response time of 7.7 minutes;
 - the Greater Alarm Response System (GARS) that provides for the type of appliances to be dispatched to particular incidents depending on their size and the type of incident;
 - a dispatch system that gives effect to GARS
 - provision for crewing of seven on the fire ground; and
 - a crewing chart for operational response including specialist appliances and expertise.
30. This system provides certainty for station staff and the incident controller. Depending on the complexity of the incident the incident controller can call a predetermined alarm level within GARS, the appropriate appliances and crews are then dispatched.
38. Uncertainty and confusion is introduced as soon as there are departures from this set of interrelated and complex arrangements.

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39. Uncertainty and confusion are the last things an incident controller or firefighters on the fire ground want. When a GARS designation is given all involved must have confidence that the resources designed to be delivered will be available.

An MFB Undertaking

40. I was involved in a protracted dispute with the Board over the application of contract conditions and contract renewal and negotiations for ACFOs (or equivalent ranks) up until the current agreement was concluded in 2010. Over time, I have seen promises made by MFB management, and not fulfilled and seen senior ranks poorly treated by management. I am uncomfortable with a signed agreement containing a set of important and enforceable terms and conditions of employment being terminated and replaced by an undertaking the terms of which are uncertain in any event. Equally, I would be concerned about the termination of the operations agreement because in the absence of clear and enforceable terms and conditions my job as a manger will be made more difficult in the face of uncertain benefits.

Paul Riley