

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 CHRISTOPHER WATT

I, Christopher Gerard Watt, ASFM, Assistant Chief Fire Officer (**ACFO**), with the Metropolitan Fire and Emergency Services Board (**MFB**), of 450 Burnley Street Burnley in the State of Victoria, say as follows:

1. I have been employed by the MFB for 35 years. I currently hold the rank of ACFO and I have held that rank for more than 10 years. My position is that of Director of Special Operations. I am presently on sick leave. I hold the current specialist membership/awards/qualifications:
 - Masters Degree in Management
 - Member Institute of Fire Engineers
 - Australian Fire Service Medal
 - Long Service and Good conduct medal
 - National Medal
2. I oppose the MFB's application to terminate the Operational Staff Enterprise Agreement 2010 and the Assistant Chief Fire Officers Enterprise Agreement 2010.

Senior Officer Contracts

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3. I was placed on a contract at the time of the Kennett Government in 1993. Many of my colleagues lost their careers and their jobs by not being offered a position and contracting of employment resulted in disruption to what had been a harmonious workplace.
4. The design and effect of the contracts of employment was to impose a wedge between workforce and management and sever the relationship between managers and the UFU.
5. Since that time, I have been a negotiator on behalf of the ranks of Inspectors/Commanders and ACFOs for contracts/enterprise agreements in 1998, 2001 and 2010.
6. The experience of negotiating management level terms and conditions with management itself highlighted the conflict of views around job security, relevant skills and the relationship of senior operational officers to emergency response. The situation was severely exacerbated in each negotiation by the influence of government oversight of the employer's ability to negotiate and in particular reach agreement.
7. The approach of management in negotiations was to create a public service employment framework for senior operational officers that failed to acknowledge or value their operational knowledge, skills and experience.
8. In my opinion such an approach to staffing at the level of ACFO, while potentially facilitating lateral entry, is not in the best interests of public safety. Officers at senior ranks in the emergency services must be qualified and experienced and capable of both comprehending and applying themselves to emergency response.
9. This negotiating experience also revealed to me the influence the government of the day has over the MFESB, Board and CEO. Similarly I observed that the Chief Officer is only empowered to negotiate around matters which the CEO and Board allow. This situation in my view has not always recognised the independent functions and responsibilities vested in the office of Chief Officer by the MFB Act and the need to recognise expertise in operational matters.

Marine Response

10. The MFB's Marine Response project involved the MFB executive group for around eight years creating an image of providing Marine Response for the Port of Melbourne. The Port is a significant life and asset exposure for which the Chief Officer is responsible. The image conveyed was inaccurate. The project was for an extended period an example of management going through the motions without committing to the project. Blame was then apportioned to others.
11. As the Director of Special Operations, I found myself leading the MFB team in Fair Work Australia hearings concerning a dispute brought by the UFU to create a practicable solution for Marine Response by MFB firefighters in the Port of Melbourne.
12. I was not empowered by the CEO to make any commitment to finalise the specifications or enter the tendering stage to procure significant capability in firefighting vessels. I raised the issue directly with him after lengthy hearings in Fair Work Australia where it was clear the Commissioner on that day would ask me to indicate if in fact the MFB was going to purchase larger firefighting vessels.
13. Up until that day, both the Chief Officer and CEO had said to me that the MFB would never buy such vessels. This position involved their view as to the lack of cost effective outcomes to be achieved by purchasing and crewing larger firefighting vessels in the Port of Melbourne. This was despite the existence of obligations and funding for many years to do just that. The Chief Officer on a number of occasions expressly cited the closing down of Marine Response by Fire Services in many parts of the world as evidence of the lack of value for money for this type of response. When I asked the CEO the question about the MFB's position on vessel purchase,, making it clear that this would constitute the MFB's committed position, he authorised me to advise the Commissioner the MFB would purchase one large firefighting vessel.

14. The approach of the MFB executive in failing to properly develop a water borne fire and rescue capability was in my view unnecessarily damaging to the interests of, and its relationship with, its operational workforce..
15. The expense of staffing and operating the Marine Project Office for almost eight years absent a commitment to achieve resolution and closure on the real matters at hand, as highlighted in Fair Work Australia, was an example of a failure by the MFB itself, rather than any adverse reflection on operational staff, the UFU or the consultation processes under the operational agreement.

ACFO Negotiations

16. In 2001 I was involved in contract negotiations on behalf of officers in what is now the ACFO rank. The MFESB refused to negotiate to closure in those negotiations, preferring to roll over the contracts then in place. The consequences of this was to greatly distress a number of ACFOs who subsequently became ill and at various times were medically unfit for duty.
17. In attempting to resolve a dispute in accordance with the terms of the contract, the ACFO negotiators, of which I was one, worked through the dispute procedure defined in the contract where an independent barrister generated a range of recommendations to resolve the dispute. Those recommendations were sympathetic to many of the issues raised by ACFOs and those recommendations were meant to go to the Board in accordance with provisions of the dispute resolution clause. The CEO and Board President received the independent recommendations. I understand they were never put to the Board, thus the dispute and the expired contract rolled on until 2010. The Director of HR at that time told the ACFO negotiators that although the contract contained a dispute resolution clause, that clause lacked any facility requiring either party to implement the dispute resolution

outcomes. The MFB chose this path and that dispute continued up until the 2010 ACFO enterprise agreement negotiated by the UFU. That agreement saw contracted employees since 1993 return to a union negotiated agreement, largely because of the conduct of the employer over many years in refusing to finalise an outcome.

18. In my view the dispute between senior operational managers at ACFO level and the CEO and Chief Officer conveyed a damaging message to the remainder of the workforce.

Trust and Loyalty

19. The role of firefighters responding to the diverse range of emergencies in Victoria in my view relies on a genuine connection and empathy to exist between the Chief Officer and operational staff, including Assistant Chief Fire Officers. The MFB application to terminate the agreements to which they had agreed to, represents and is regarded by me, and many operational staff and ACFOs as a betrayal of trust to its workforce. In my view there is an obligation of loyalty by the MFESB and in particular the Chief Officer in asking fire responders to risk their lives in the interests of emergency response to ensure public safety. It is unreasonable and improper to maintain that expectation in an environment where the trust relationship and honest and candid communication between the employer and its workforce has broken down, as in this case. The employer's conduct in making this application is now perceived as a budget driven bargaining strategy that is politically influenced, massaged by a legal team and manufactured by media relations experts as propaganda. Were the Commission to terminate the agreements it would have long lasting and negative effects on the trust and confidence between the MFB and its operational staff including ACFOs. My conclusions about the impact of the MFB's conduct on operational staff is based on numerous discussions I have had with almost all ranks since the MFB announced its application to terminate the agreements. The discussions I have had have involved repeated requests from operational staff for the reason for the MFB application. I have been placed in a difficult position as a senior manager required to support the MFB, when the

impact of the making of the application is so negative and its rationale difficult, if not impossible, to justify on a practical basis.

20. The MFB's recent performance as assessed by the key performance indicators such as those reported upon by the Productivity Commission, and in my own experience, has not been inadequate or compromised. The operation of the Agreements and the consultation arrangements have not had any demonstrable negative impact on MFB's operational performance.

Director of Special Operations and Proposals for Consultative Committee

21. As a Director of Special Operations, my responsibilities cover HAZMAT, Emergency Medical Response, Urban Search and Rescue, Rope Rescue (HART) and Marine Response. These disciplines have a critical reliance upon rescue techniques and very technical rescue equipment. In evaluating safety improvements particularly in the areas of Urban Search and Rescue and Rope Rescue, my staff maintain face to face communication with operational crews to ensure evaluation of equipment and rescue techniques is timely, practicable and safe. This relationship means that by the time formal consultation at the consultative committee level is reached, all or most issues had been confronted and worked through to achieve practicable solutions. Thus when proposals are submitted to consultative committee, there was no or very little delay or amendment to the proposals.
22. The greater challenge for me was to have special operations items requiring consultation approved by the ELT for placement on the consultative committee agenda. The ELT is made up of the CEO, Chief Officer and the Executive Directors. Proposals referred to the ELT but not approved for referral in all likelihood would have been adopted through the consultation process, and some ultimately were adopted, but were not endorsed at the time as their approval would be seen as inconsistent with the theme ELT was espousing.

This theme was to show that consultative committee was a union blocking mechanism for change.

23. I was a management representative on consultative committee for around 2 years in the period around 2011/2012. This role was terminated following an exchange I had with the CEO at an ELT meeting. At that meeting he asked my view as to the UFU using consultative committee to block consultation. My response was directly to the contrary and I expressed the view that from an operational and practical perspective the UFU consistently argued for outcomes which were in the best interests of firefighters. A relatively minor, but simple example can be cited where the employer proposed a cheap dysfunctional and uncomfortable alternative to the provision of P2 respiratory masks made by 3M. The argument put by the employer relied on all masks being similar in performance but pressed for a type of mask which was significantly less costly to the P2 mask that was already in commission. Recognising that cost is an issue did not overcome the more important matter of functionality for respiratory protection of firefighters. Essentially, usability was made secondary by the employer compared with cost. The UFU and firefighters strongly opposed a departure from the purchase of P2 masks which had been used for many years and eventually consultative committee approved the ongoing purchase of P2 masks. The management view expressed at consultative committee was not complementary to the Union insistence that P2 masks were the preferred masks of firefighters on this occasion and the Union was accused of being a blocker and perhaps financially irresponsible. The key difference in alternative masks to the P2 was the amount of effort to inhale and exhale through the alternative masks and the resulting fatigue on the wearer.

Workforce Flexibility

24. With regards to flexibility of the workforce, my view is that the last fire season, as many preceding it, resulted in enormous commitment of all shift and day work operational staff to crew trucks, in many cases leave their families and homes, and travel to places in Victoria

where they were required to support the CFA and enhance the safety of rural communities. The notion that there are limits to the flexibility the Chief Officer requires in order to meet state emergency response commitments seems to me to be not consistent with the demonstrated behaviours of MFB firefighters who have for many years responded remote from Melbourne. Rather than hear complaints from firefighters that they are being sent away from home to respond to emergencies, my enduring experience, and in the case of the 2013/2014 season, is that the complaints voiced by firefighters were always along the lines of the MFB not involving them or engaging them in responses across the state and interstate.

25. Any future that broadens the capacity of the employer to make insecure the work arrangements of emergency responders is likely to damage the community expected capability historically provided by the MFB. Any staffing formula that guesstimates risk and varies staff determined by what the Chief Officer may imagine will happen next will undermine the existing capability around response time and minimum numbers established as necessary on the fireground. Nobody has the capacity to determine the future with regard to emergencies. An appliance and staffing formula or employment regime formulated other than on the basis of comprehensive and detailed risk assessment and analysis and the primary requirements for the safety of firefighters and the community would prejudice the MFB's capacity and the safety of its firefighters and the community. Those arrangements from the perspective of operational staff, including operational leaders, require the certainty of inclusion in the Agreement. .
26. In conclusion, my 35 years of experience with 26 of those years as a senior officer lead me strongly to the view that the best interests of the community and firefighter safety are vested in continuation of enterprise agreements between the workforce and the employer. I see the termination of the agreements as now proposed as damaging to the future MFB's capacity for fire and emergency response in Victoria.

Christopher Watt

June 2014