

E-BULLETIN **Postal**

#16, Friday, 6 September 2013



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1. **Australia Post's boss new house**

Australia Post boss Ahmed Fahour is reported to have purchased one of Melbourne's grand estates - a historic bluestone home in Hawthorn for \$20 million.

The sale of the imposing Invergowrie mansion in Coppin Grove made the papers last week on Saturday 31st August with The Age reporting 'the deal with the Australia Post chief, who banks an annual salary of more than \$3 million, has been sealed'.



Australia Post's boss new mansion

While Postal workers have had to cop wage restraint over the last two EBAs because of hard business times, the Australia Post boss has put his stamp on the property market - as the 1.1-hectare Invergowrie estate price comes close to property records.

2. **FWC finds porn sackings unfair**

In a groundbreaking case a Fair Work Commission full bench majority has held Australia Post's sacking of three employees for sending pornographic emails at work was unfair after taking into account the workplace's "culture of tolerance" and failure to enforce its policies.

The majority – Vice President Lawler and Commissioner Cribb - in an appeal by the national CWU overturned Commissioner Lewin's findings that the Post workers had not been unfairly dismissed for such conduct, making the point that policy was not necessarily enough and employers needed to take "adequate steps" to "bring home" to workers the seriousness of sending porn.

The case concerned three Dandenong Letter Centre (DLC) employees who had sent emails attached with porn to their non-work email addresses and to friends at work. Post was alerted to the emails when an email search revealed a large number of DLC employees – including supervisors and managers – were involved in receiving or sending the porn emails.

But there were several problems with Australia Post's case.

The FWC majority considered that while porn is 'usually' a valid reason for dismissal it was not enough - there were other broad circumstances to consider in determining whether a dismissal was harsh, unjust or unreasonable.

“At least within the DLC, Australia Post did not take steps to monitor compliance with the relevant policies or enforce them,” it found.

Given the employees were long-standing, had only sent the material to willing participants and there was no risk of damaging Australia Post’s reputation, the FWC said this only amounted to misconduct – not something that could warrant an instant dismissal.

“In particular, the culture that existed at the DLC, and the historical absence of monitoring and enforcement of policy within the DLC, rendered it harsh to dismiss employees such as the Appellants, without any prior warning, for breaches of policy of a type that had been widespread and unaddressed for an extended period,” it found. The inconsistent treatment, especially of some managers who had received or sent unacceptable emails and were not dismissed was noted.

According to the FWC majority, Commissioner Lewin paid "scant" consideration to the arguments put by the CWU’s national secretary Dan Dwyer on these points in the first case.

The FWC majority noted there had been an emerging trend of cases involving an employee sending or receiving pornography, where such conduct was used as grounds for instant dismissal. “Such a proposition is inconsistent with basic principle. Accessing, sending or receiving and storing pornography is not a separate species of misconduct to which special rules apply.”

The case serves as an example for others, the FWC said.

Lawyer Daniel Victory who acted on behalf of the CWU said “this case was not about the rights and wrongs of circulating pornographic material at work. The employees admitted they had done the wrong thing. It was about the gulf between the policies of Australia Post and the culture at the DLC and the way Australia Post went about addressing it”. CWU legal officer Dahlia Khatab briefed counsel and prepared for this case.

The remedy which includes re-instatement and back pay of 3 years less money earned will be discussed in FWC on 19th September 2013.

3. Negotiations conclude on new OHS Agreement

It all started with fervent commitments given in the last EBA to negotiate a new OHS Agreement with the union.

Then followed the procrastination and resistance by Australia Post in which every little issue would be contested.

Now after all that exhausting muck the end result is a consensus on the new Agreement, including matters such as the right of HSRs to attend union HSR training and the right of workers to request the union to conduct HSR elections in accordance with the provisions in the Work Health and Safety Act 2011 and Regulations.

The Agreement also provides for a range of other matters such as the following:

- The right of the union to be consulted on OHS matters;
- The right of the union to represent workers in OHS matters;

- The right of the union and workers to have a reasonable opportunity to contribute to the decision-making process relating to health and safety matters;
- The right of the union, HSRs and workers to be involved in the issue resolution process in relation to work health and safety issues;
- The right of the union to be consulted and to negotiate establishing or varying Work Groups;
- The right of the union and workers to be consulted and to negotiate the number of HSRs and DHSRs in a Work Group; and
- The right of HSRs in a facility to meet to discuss OHS matters relating to the facility as a whole.

The proposed new OHS Agreement has now gone to the union's Divisional Executive for endorsement.

4. Australia Post fury over union's loose load report

Australia Post is annoyed over a report the national CWU has commissioned by an independent ergonomist that seeks to identify the health and safety hazards associated with Post's "loose loading" initiative.

The essence of their complaint is with the ergonomist's depiction of loose loading as being 'inherently hazardous' and, therefore they say, all with a straight face, he must have had a negative view of loose loading from the outset.

It seems that Australia Post believes that the best way to handle concerns about its loose loading initiative is to just attack the messenger.

But, in this instance, the messenger has worked as an OH&S and ergonomics consultant for 28 years and much of his work in that time has been to assist organizations eliminate or improve manual handling that was characterized by repetitive and sustained work like that observed at Post's Potts Hill facility.

Australia Post would do better to fix the problems, not attack the messenger.

Remove the hazards or reduce the risks.

Involve the union and our ergonomist in the process.

5. Union raises concerns on changes to work practices

The CWU has raised concerns regarding a number of changes to work practices.

At a recent National Mail Consultative Forum, Australia Post informed that the 'over servicing of customers' would be wound back to the Community Service Obligations of delivering 94% of mail within the guaranteed delivery timetables as opposed to the 96%-99% currently being achieved. The union's position is that the 94% standard is a minimum and Australia Post should commit to resourcing to achieve the CSO standards and improve on them wherever possible.

Also of concern is the action by Australia Post to change pick up times from SPBs. As you would know it is a requirement that all SPBs are cleared after 6.00pm. This was not adhered to on the recent Queen's birthday weekend. No consultation occurred on this change to practice. The issue of clearance of SPBs on public holidays and Sundays and SPB clearance times generally, given that all SPBs must be cleared after 6pm in accordance with the CSOs, was raised with Post. Australia Post say there have been no other changes to SPB clearances since the time above and they will consult 'within the scope of the obligations in the new EBA'.

If you become aware of changes to work practices in relation to the above please contact your CWU branch or cwu@cwu.org.au

6. Back office working party trials

The CWU and Australia Post have agreed on 23 post offices across VIC, NSW, QLD, SA and WA (have requested TAS be included) to participate in the back office working party trials.

Guidelines around the trials include matters such as:

- The results of the trial will not be used to determine any final staffing numbers at the trial sites.
- The ROM Back Office Working Party will meet to review the results to determine any variations that are required to the documentation or process before any further roll out is considered.
- The trial outlets will be surveyed to capture their feedback on the process. The survey will be agreed by the ROM Back Office Working Party.
- A representative of the CWU and Australia Post will be present at the initial meeting with the trial outlet to explain the purpose of the trial, use of the forms and how the information will be collated.

Our strong desire in pursuing these trials is to ensure that the data collected for the purpose of determining staffing at post offices is more precise and less subject to arbitrary manipulation and the ROM times are validated against the actual times taken to perform these tasks in an outlet.

7. Future Ready changes at Post

Post& Parcel put the following question to Ahmed Fahour about Australia Post's transformation and the implementation of the Future Ready strategy.

With labour representing a significant component of any postal operator's costs, how is Australia Post managing this area?

Mr Fahour - As our core business continues to change, we have invested A\$20m (\$18.3m USD) over three years to provide employees with a range of programs to equip them with the skills that will be increasingly required as we shift from a letters business to an e-commerce driven business.

That would be most welcome but the last time we were briefed on this subject the \$20 million investment in people had mostly gone on supervisors and managers.

We would love to hear from members about what programs they have participated in to equip them for the jobs of the future in Post.



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