

Staff News

9 January 2012

Fair Work Australia finds that Appin mine (BHP NSW) was not bargaining in Good Faith.

Fair Work Australia issues orders to compel Appin to provide information including pay band Information to APESMA, and tell APESMA what it can agree to in an enterprise agreement for Staff.

Background at Appin

In 2010 Staff at Appin Mine decided that they wanted a Staff enterprise agreement to consolidate their conditions, to include a standard contract for all staff, and to improve some conditions. The overwhelming majority signed a majority support statement for the enterprise agreement, and when Appin did not agree to bargain with staff, we went to Fair Work Australia who issued a Majority Support Statement in July 2010 meaning that Appin had to bargain with staff.

After over 12 months of bargaining, we again went to Fair Work Australia in September 2011 and successfully argued that Appin was not bargaining in good faith with its' staff for an enterprise agreement. As part of our case, APESMA sought that Fair Work Australia order Appin to provide APESMA information essential to the bargaining process and to take certain steps to promote bargaining.

Broadmeadow

APESMA on behalf of Staff at Broadmeadow Mine (BMA Qld) also lodged an application with Fair Work Australia in December 2011 arguing that Broadmeadow has not been negotiating in good faith with its' staff for an enterprise agreement. That case will be heard in April 2012. We are now hopeful that BMA will show leadership and accept the guidance of the independent umpire in the Appin decision , and move to finalise the Staff enterprise agreement at Broadmeadow.

The decision

In his decision on 4 January 2012, Commissioner Roberts, of Fair Work Australia decided that:

“In short, I am satisfied that Endeavour is “bargaining” with APESMA with no real intention to negotiate an enterprise agreement. This cannot constitute bargaining in good faith in the terms envisioned by subclause 228(1) (d) of the Act.” (Paragraph 11 of the Decision).

- **Commissioner Roberts ordered that Endeavour Coal Pty Limited (Appin) is to take the following actions within 14 days:**
 - **Provide to APESMA a list of subject matter that Endeavour Coal would be prepared to include in an enterprise agreement**

