



CEPU (Communications) SA-NT POSTAL NEWSLETTER



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Stop Press: Australia Post price rise needs deep scrutiny

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The CEPU has questioned the reasoning and timing of the Australia Post's proposed postage price increase from 55 to 60c a stamp.

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"We have deep reservations about this proposed increase. Why is one of Australia's most profitable organisations asking consumers to foot the bill for the \$80 million of additional revenue? ", said CEPU National President Ed Husic.

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"It will be particularly galling for consumers knowing that Australia Post's top executives last year took home bonuses of up to \$1 million.

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"You also have to ask if putting up prices at a time when the economy is still extremely tight and mail volumes are contracting, is a wise business move. Add to this the pressures brought about by technology and the internet, and you can see why we might be concerned about what this price rise might do to accelerate business decisions about mail substitution - another factor in possibly reducing future volumes. From our perspective, employees lose either way."

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"If the price rise goes through resulting in mail volume contraction, Post will use this as a reason to cut jobs and take-home pay. If the rise doesn't get approved, they'll claim cost increases need to be met with cuts to jobs and conditions.

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"We're also surprised that Post has re-hashed the claim that its wages bill is forcing it to increase prices - which is what it said the last time it asked for a postage price increase. This will come as news to our members who battle to protect their current take home pay from roster changes and loss of allowances that cut thousands of dollars in postal worker income.

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"Furthermore, Post has continued to cut the pay of new employees by denying them access to penalty rates. A new postie is \$5000 worse off in take home pay due to this. It's worth remembering that the starting income of new postie is less than \$40,000 a year - nearly \$20,000 less than the salary taken home by average wage earners.



"And Post wants more of its posties to be part-timers, forcing workers to live off an income of \$20,000 to \$30,000."

"This proposal needs to be carefully scrutinised before the wallets of consumers and Post employees are hit any further."

The CEPU is considering making a formal submission to the ACCC about the proposed increase.

Facility Nominated Doctors: a sick practice

During EBA talks, the CEPU continually called on Australia Post to drop their practice of using Facility Nominated Doctors.

FND's, which are paid for and controlled by Australia Post management, are used to get injured workers back on the job before they are ready. This then allows management to manipulate Lost Time Injury figures and access large executive bonuses, at the expense of workers' health and safety.

We've heard horror stories of members being directed back to work by FND's, with broken bones and unhealed injuries:

- In Queensland a mail officer saw an FND about pains in her leg, she was told it was a sprained ankle and directed on to light duties – four days later it was discovered her ankle was broken.
- In NSW a postie was ordered to an FND after an accident and put back to work on light duties (no lost time). A week later the pain was so bad, he went to his own doctor, where X-rays revealed a broken leg and the doctor also discovered an almost fatal blood clot.

The union has been fighting the use of FNDs in the Australian Industrial Relations Commission (AIRC). At these hearings Post was quizzed about why it refers employees to an FND, even after the employee has already seen their treating doctor. Senior Deputy President (SDP) Drake asked Post the following:

SDP DRAKE: "... it can't be the case that in every respect the employer needs a second examination.

"You have (a) a claim and (b) a medical report from a certified general practitioner. Why would you require a medical examination unless you had some doubt about the veracity of the report?"

Post uses FNDs to put pressure on employees – risking employee health, making them work in pain.

Our EBA7 campaign is about protecting your security, safety and pay. Take action! Tell Australia Post your safety and wellbeing are important to you – tell them to end their practice of using FND's now!

Post withdraws appeal and cops Improvement Notice on Mercedes vans

As you know we have battled Australia Post for over a year about the threats to transport member safety presented by the move to introduce the new Mercedes Sprinter vans without side windows.

We have consistently argued the vans are not fit for purpose and that the lack of side windows severely limits driver vision – and, therefore, safety. Now Post has withdrawn its appeal.

Why has this happened?

On Monday 20 July the issue of safety with the Mercedes Vans was again before the Industrial Relations Commission (AIRC). Post was made submissions against the decision of Comcare. Members will recall that Comcare had found that:

- Australia Post had breached the Occupational Health and Safety Act (penalties apply) and
- that the use of the Mercedes Vans constituted a *"real risk"* to the health and safety of drivers and that side windows may be required in Mercedes vans

However, just minutes before the time when Post had to put a witness in the box to justify their position, Post withdrew its appeal and agreed to the Improvement Notice. Their evidence would have been interesting. For example they told Comcare in writing that it would cost \$24.25 million to fit one window. Compare this with the total cost of the 900 Vans - about \$40 million. Then their witness in a signed statement said it would cost only \$1.06 million. Then on the day they gave us an update saying it would cost \$0.74 million.

Post has now agreed that it will take action to prevent any further breach or likely breach (of the law).

The CEPU had also appealed and our consent was needed to allow the matter to proceed. We gave conditional consent. This is recorded in the Order of the AIRC as follows:

The intent of these steps is that Australia Post will now proceed to comply with the Improvement Notice. The CEPU will be free to pursue its appeal in the event that it considers this necessary, including if it is dissatisfied with the steps taken by Australia Post to comply with the Improvement Notice or if any adverse action is taken by Australia Post against any member of the CEPU who refuses on safety grounds to drive a Mercedes Benz Sprinter van.... The (CEPU) appeal is adjourned generally with liberty to the appellant (CEPU) to apply to have the appeal relisted on 2 days notice.

Where to now?

Australia Post is required to publish the Improvement Notice on all notice boards to alert other drivers to the actions that Post must take to address the risks associated with driving the vans.

In accordance with the Improvement notice Australia Post is required to consult with drivers and the CEPU about the safety issues associated with the lack of side windows in the Mercedes vans. They must identify the risks, assess the risks and implement risk control measures to eliminate or minimise any risks, including but not limited to "the installation of additional windows" where necessary. Our bans remain in force. If Post take any action to threaten, disadvantage or otherwise pressure you to drive a Mercedes Vans, and you agree with Comcare that a real risk exists to your health and safety, then contact us immediately. Do not make any statements or take a risk by driving a van under threat!

A copy of the AIRC Order can be found at the end of this bulletin.

What price loyalty?

What are the key issues for Australia Post during one of the most significant events for its employees in the Commercial Division in recent times? What dominates Australia Post's response to employees about call centre closures and redundancies? Where's the concern for the circumstances of individual employees?

Read the following two scenarios from the CEPU WA Branch and you be the judge.

Scenario 1

On the 20th of May this year Australia Post without any prior consultation with the Union or their staff advised Call Centre Staff that it was their intention to close the centres in WA, SA, TAS and NSW with the expected closure in Perth to be completed by October this year.

Within a few days of the announcement a number of people working in the Call Centre in Perth made enquires about redundancy, they were told that they must complete the "Preferences Form" first and that it would take a number of weeks before payout information would be available.

During the week ending 17 July 2009 those people who expressed an interest in redundancy were finally given their payout figures but when they sought information on an exit date they were told that Post could not give them one as they were in discussion with the Union regarding the future of the Call Centre. (It

What price loyalty? (cont)

would be worth noting here that whilst the Union has put forward a proposal to keep the Call Centre open we have also suggested to Post that they should let anybody who wants a redundancy go now.)

It has also been reported to us that some people who have been seeking new employment outside of Post have been told that if they leave now their departure will be treated as a resignation and no redundancy benefit will be paid.

Scenario 2

Early in June 2009 over the course of a few days approximately 20 people who work in Commercial HQ's WA at generally the AO5 – AO7 level were individually spoken to and told that as a result of a review that had been undertaken their positions were surplus to requirement, some of these people were unattached.

They were then asked at the meeting if they would be interested in a redundancy as there appeared to be little likelihood of redeployment or retraining. Approximately 7 to 10 days later they were provided with their payout figures. **In the Call Centre people have had to wait nearly 2 months!**

On the 19th of June these 20 people in Commercial HQ WA received an email asking them to hurry up and make a decision as Post wanted to get the VRP's out of the way before the end of the financial year, clearly this decision was being influenced by the 4% wage rise due on 23 July.

On the 15th of July those who had said yes they would go or those who had expressed some interest in going were handed a formal offer of redundancy which required them to sign the acceptance document and hand it back the next day with an exit date from Post on 24 July, i.e. one week later!

In a cold and callous way the careers of approximately 12 people with collectively some 400 years of experience between them were brought to an end.

Conclusion

"It would appear that if you work in a Post Call Centre you can have a redundancy as long as you stay until they have finished with you, if you work in administration and sales type positions at the same facility your use by date comes up a lot quicker and you are virtually thrown out the door," said CEPU WA Secretary Bryan Watkins.

As stated at the outset "What price loyalty", no wonder the Union won't sign on to EBA7.

Drivers stand on their rights

Australia Post drivers at Underwood and Northgate transport facilities in Queensland are refusing to sign a 'driver health acknowledgement' form until drivers and the union are properly consulted regarding the application of the form and how the privacy of information on the form will be protected.

The 'driver health acknowledgement' form is part of Post's driver fatigue management plan which has its genesis in the Commonwealth regulations covering Driver Fatigue under the Occupational Health and Safety (Safety Standards) Regulations. The Regulations place an obligation on Post to ensure that it has a driver fatigue management plan in place and to promote better fatigue management of drivers of vehicles with a 12 tonne gross vehicle mass, or greater.

But the Post drivers at Underwood and Northgate say they have meet the requirements of the Regulations by attending a briefing on driver fatigue management and through ongoing completion of log books. Moreover they say that there is no requirement for drivers and particularly van drivers to sign a 'driver health acknowledgement' form.

At the core of the dispute, according to the CEPU Qld Branch, is the fact that the drivers at Underwood and Northgate don't trust Post management to do the right thing either in terms of the application of the form or ensuring the privacy of an individual's health information and see the form as simply another way of Post shifting blame on to the drivers when things go wrong. The matter continues to be in dispute.

Post refusing to treat part-time employees equitably

The ongoing battle between the CEPU and Australia Post over its non payment of shift penalties to part-time employees for additional hours will have to be dealt with under the provisions in the new Fair Work Act.

In the union's view part-time employees who work additional hours and can't get overtime because they have not worked in excess of 7 hours 21 minutes should not be treated as a repository of cheap labour by Australia Post. Part-timers working additional hours should be paid the shift penalty applicable to full-time employees on a comparable shift says the union.

Furthermore, in the union's view, it is not open to Post to re-interpret the Award for its own convenience, ignoring what has been custom and practice i.e. payment of a shift penalty to part-time employees engaged in a comparable shift to full-time employees. It will come as no surprise that arguments about equity for part-time employees fall on deaf ears at Post senior management level.

Nevertheless, it is clear that the intent of the 'Part-Time Employees' overtime clause in the General Conditions of Employment Award was to create equity in the treatment of part-time employees vis-a-vis full-time employees i.e. part-time employees don't receive overtime until they work in excess of 7 hours 21 minutes. However, to maintain equity between full time employees and part-time employees when part-timers work additional hours up to 7 hours 21 minutes then they should be paid the applicable shift penalty as per full-time employees, to do otherwise is unfair.

Recent changes to federal Disability Discrimination Act 1992

The *Disability Discrimination and Other Human Rights Legislation Amendment Act 2009* (Cth) has recently been passed by federal parliament.

The amendments to the federal *Disability Discrimination Act 1992* (DDA) are in response to findings by the Productivity Commission.

Key changes to the DDA include those that:

- clarify the need for employers to make reasonable adjustments for people with a disability;
- clarify the matters to be considered when determining unjustifiable hardship (which operates where it would be unjustifiably hard on an employer to accommodate an employee's disability) and makes clear the onus of proving it lies with the person claiming it;
- change the definition of indirect discrimination so that employers will now have to prove that the requirement or condition being imposed was reasonable (previously employees had to prove the unreasonableness of the requirement or condition);
- clarify the definition of disability to include behaviour that is a symptom or manifestation of the disability;
- extend the inherent requirements exception to include for example past training, qualifications and experience and work performance, which operates where an employee cannot perform the inherent requirements of the position as a result of a disability and allows for lawful termination of employment for this reason.

The *Disability Discrimination and Other Human Rights Legislation Amendment Act 2009* also amends the *Age Discrimination Act 2004* (ADA). The new act removes the 'dominant purpose' test from the ADA so that employees need only prove that age was a reason (not the dominant reason) for the alleged behaviour.

As well the *Disability Discrimination and Other Human Rights Legislation Amendment Act 2009* amends the *Human Rights and Equal Opportunity Commission Act 1986* (Cth) (HREOC Act). The HREOC Act will be renamed the *Australian Human Rights Commission Act 1986* (Cth) and the Human Rights and Equal Opportunity Commission will be renamed the Australian Human Rights Commission.

Recent changes to federal Disability Discrimination Act 1992 (cont)

The changes mean that employers will need to reconsider their approach to the management of workplace issues and termination of employment.

The implications for the union and its members are that the changes will generally make it easier for employees to claim that they were discriminated against on the basis of disability or age. For Australia Post employees who are managed under the non work-related injury guidelines the changes make it clear that Post must pay greater attention to reasonable adjustment issues and what they can reasonably do to accommodate an employee's disability.

Telstra returns to bargaining table

The CEPU and Telstra have agreed on a set of important principles that commit the company and the union to a productive working relationship. Telstra and the CEPU have committed to bargaining in good faith under the Fair Work laws towards the objective of a new enterprise agreement as soon as practicable. As well unions with members in Telstra have launched a new petition in support of Telstra employees having the choice to join one collective agreement.

CEPU back in the game at Optus

The CEPU Communications Division is back in the game at Optus in yet another example of an employer changing its past industrial relations practices to comply with the Fair Work Act.

Optus has employed its core workforce under non-union collective agreements since 1994, but under the new Fair Work Act the union will have a seat at the table when talks commence on replacing the current deal. Under the new laws employees are able to appoint a representative and the parties are required to bargain in good faith.

CEPU Communications Division Assistant Secretary Burt Blackburne says now that non-union agreements are a thing of the past the union is "keen to get in there and represent our members at Optus this time around". He says the union has "quite a few" members at Optus, particularly at its Macquarie Park headquarters in NSW, and has already had some initial communication with them about the approaching negotiations.

Pay, allowances and performance measures are likely to be big ticket items in the agreement, with employees looking to achieve comparable results to those at Telstra, he says.

Despite being locked-out of the wage negotiations the union has continued to deal with Optus and represent employees on matters such as workers compensation and unfair dismissal.

Women vulnerable to "no-pay, low-pay" trap

A new study entitled, "[Low-paid Employment and Unemployment Dynamics in Australia](#)," by [Hielke Budelmeyer, Wang-Sheng Lee and Mark Wooden](#) has found that women are much more likely than men to get stuck in a cycle of low-paid work and unemployment.

Their analysis of annual HILDA survey results from 2001 to 2007 demonstrates that a majority (53%) of workers who reported having a low-paid job (less than two-thirds of median earnings) had moved to a higher paying job when they next filled out the survey a year later.

But when it came to the risk of future unemployment, the results split sharply along gender lines with women in low-paid jobs are almost twice as likely to experience repeat unemployment.

While men with low-paid jobs were not significantly more likely to experience future unemployment than

Women vulnerable to "no-pay, low-pay" trap (cont)

those with more lucrative jobs, "essentially the reverse results" applied to low-paid women, who were 1.7 times more likely to become unemployed than high-paid women.

"Why women in low-paid jobs would appear to be at relatively greater risk of experiencing unemployment than women in high-paid jobs is not immediately obvious, but would be consistent with discrimination in hiring and firing practices, at least at the bottom of the wages distribution.

"Alternatively, it might reflect differences in preferences for employment emanating from the secondary income earner status of women in many household," the authors say.

They argue the finding bolsters the case for government programs designed to create employment, even if it is low-skilled and low-paid.

Copy of the AIRC Order on Mercedes van appeal

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION - ORDER

Workplace Relations Act 1996
OH&S Review Authority

**Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia-
Communications Division**

v

Comcare
(C2009/2431)

VICE PRESIDENT LAWLER

MELBOURNE, 21 JULY 2009

Whereas:

A. Michael Davson, a Comcare inspector, issued an improvement notice number 3915IN1 (**Improvement Notice**) to the Australian Postal Corporation (**Australia Post**) pursuant to s.47 of the Occupational Health and Safety Act 1991 (**OHS Act**).

B. Australia Post brought an appeal against the issue of the Improvement Notice, being matter number C2009/2415.

C. The Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (**CEPU**) also brought an appeal against the issue of the Improvement Notice, being matter number C2009/2431.

D. On 20 July 2009, pursuant to an agreement with Comcare, Australia Post withdrew its appeal in matter C2009/2415 albeit that it was also agreed between those parties that Australia Post may bring a further appeal against the issue of the Improvement Notice if it deems such action appropriate.

E. Australia Post has been granted leave to intervene in the matter in matter C2009/2431.

F. The CEPU has proposed that its appeal in matter C2009/2431 be adjourned and that an order pursuant to s.48(5) of the OHS Act be made lifting the statutory stay of the decision to issue the Improvement Notice otherwise effected by s.48(5) and that proposal has been accepted by Comcare and Australia Post.

G. The intent of these steps is that Australia Post will now proceed to comply with the Improvement Notice. The CEPU will be free to pursue its appeal in the event that it considers this necessary, including if it is dissatisfied with the steps taken by Australia Post to comply with the Improvement Notice or if any adverse action is taken by Australia Post against any member of the CEPU who refuses on safety grounds to drive a Mercedes Benz Sprinter van. Australia Post will be free to reinstitute an appeal against the Improvement Notice if it considers this necessary.

By consent:

1. The appeal in matter number C2009/2431 is adjourned generally with liberty to the appellant to apply to have the appeal relisted on 2 days notice.

2. Pursuant to s.48(5) of the Occupational Health and Safety Act 1991 the Commission orders that the operation of the decision by Michael Davson, under section 47 of that Act, to issue improvement notice number 3915IN1 to the Australian Postal Corporation not be suspended.

BY THE COMMISSION:

VICE PRESIDENT

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Share this newsletter

Please share this Communications newsletter with fellow CEPU members and workmates by putting a copy up on your workplace Union noticeboard.

If you have any questions on any of the above articles, please contact an official at the Union office on (08) 8232 5999.

Yours faithfully,



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