

# Employers Need to Watch It

Published in the Daily Mercury on Wednesday, 19 August 2015



The last two weeks have delivered some frightening times for some 56 stevedores employed in Sydney and 41 stevedores employed in Brisbane, who were sent a text message and an email indicating that they would “not be required to attend work, effective immediately”.

The Maritime Union of Australia stepped in to make an urgent application to the Federal Court to - among other things - put a stop to the immediacy of the dismissal of so many workers who were employed under an Enterprise Agreement.

Justice Rangiah of the Federal Court expressed in his reasons for his decision, that although he could not reach a firm view as to merits of either side’s arguments, it was “necessary and preferable” that the employees keep their jobs until the court considered the matter further.

The court granted an injunction and the employees were reinstated. The court left it up to the employer as to whether they wanted to provide the relevant employees with work, however the employer was ordered to continue to pay wages until the Federal Court made a final decision.

The court was mindful that the employer could suffer hardship in having to continue to pay wages, particularly if employees were not actually performing any work. For this reason, the Federal Court ordered an expedited hearing with a trial date set for 31 August 2015. Furthermore, the union gave an undertaking to repay the employer for wages paid following the dismissals, should the dismissals be found to have been lawful.

The case highlights the importance for all employers, irrespective of the size of their business, to ensure that employment contracts, enterprise agreements and minimum standards are adhered to, particularly relating to dismissals, redundancies and performance management of employees.



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