

AUSTRALIAN FEDERATED UNION OF LOCOMOTIVE EMPLOYEES



Circular: 64/22
Ref: LSL
22/07/2022

Payment of Long Service Leave

Dear members,

The AFULE have been in dispute with Queensland Rail for in excess of 12 months relating to an interpretation of the payment of Long Service Leave (LSL) per the below clause.

47.3 Leave accrued up to and including 7 July 2009 will be considered "preserved" and paid for at the base rate applicable at the time of taking leave. Leave accrued from 8 July 2009 will be paid at the full flat rate applicable at the time of taking leave.

Recently we again met with QR on this issue at the Fair Work Commission (FWC). At this conciliation meeting the RTBU joined us, and the Commissioner gave some guidance as to the next steps and allowed the union parties until today (22/07/2022) to inform of our desired path *and* jurisdiction to have this matter heard. After enlisting the assistance of our law firm, we today informed the Commission that we will return to Fair Work in August for an additional conciliation meeting. It is expected that the matter will then be sat down for arbitration.

The QR position is that only when employees enter the Traincrew grade they commence accruing LSL at the Full Flat Rate, this means existing employees who enter the Traincrew grade have two banks of LSL, one pre Traincrew (paid at base) and one post Traincrew (paid at FFR), *even* if the employee has no service prior to 8 July 2009.

Our position on the wording of the EA is that any LSL accrued after 8 July 2009 is paid at the full flat rate regardless of when you entered the Traincrew grade. We believe the wording and intention of the clause is clear.

I am sure that as QR managers progress through the business that their LSL isn't paid at differing rates depending on their previous positions.

The AFULE were the union that ran a strikingly similar dispute within Aurizon recently, (as was noted in another organisations communications yesterday) who effectively have the same clause as QR. The Aurizon matter did not make it to Fair Work. They identified the error and provided a special payment for our member at the first step of the dispute process.

Traincrew representing Traincrew

Through ongoing discussions regarding this matter, questions have been raised by our law firm on the overall legality of not paying the Full Flat Rate on all Traincrew accruals – accrued post 8 July 2009 or not. This is something that we will also be following up on.

Dealing with QR and the FWC can be a prolonged process and I share our members frustrations for the time it has taken to resolve this issue. QR will continue to try to avoid us and prolong the dispute however, the AFULE is not going anywhere.

If you would like more information, please contact your local AFULE representative or your state office on 3844 9163 or traincrew@afule.org.au

In Solidarity,

A handwritten signature in black ink, appearing to read 'Mick McKittrick', is written above a solid horizontal line.

Mick McKittrick,
State Secretary