

MEDIA RELEASE

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Common sense prevails in Fair Work decision

FAIR Work Australia's appeal decision to not recognise a union official as an individual bargaining representative is a rare victory for common sense and employers in every sector of the national economy.

In a two-to-one majority, a Full Bench of Fair Work Australia overturned a decision that forced an offshore oil and gas employer to recognise a Maritime Union of Australia (MUA) official as an individual bargaining representative.

Technip was represented in the appeal by AMMA director of workplace policy Geoff Bull, who advised the company that it was not required to recognise the individual as a bargaining representative given the MUA had no constitutional coverage of the workers.

"The decision under appeal found that Technip was required to recognise an MUA West Australian branch official as the individual bargaining representative for a group of remotely operated vehicle (ROV) workers," explains Mr Bull.

"This is despite the fact the individual was really acting in his capacity as an MUA official, going as far as using the union's letterhead for all official correspondence.

"Thankfully a Full Bench of Fair Work Australia, headed by president Giudice, made the right decision by overturning this charade on appeal."

Under the Fair Work Act, unions are restricted by their constitutional rules that determine the types of workers and industries they can represent in negotiating enterprise bargaining agreements.

The legislation prohibits unions from acting as bargaining representatives for employees whom the union does not have constitutional coverage. In this case, Mr Bull said it was quite clear the MUA's actions breached this provision.

"Had the majority not overturned the original decision, it would have paved the way for unions to act under the guise of its officials as individuals to represent any group of workers, outside the coverage of their union rules," he said.

"We might have seen such perverse outcomes as a construction union representing nurses. But common sense has prevailed and all Australian employers can rest assured this won't be the case.

"AMMA welcomes this decision and hopes to see more Fair Work outcomes that lead to a more balanced distribution of negotiating powers between employers and unions."

In other cases before the courts, AMMA is continuing to use its IR Foundation Fund to challenge court and tribunal determinations which are adverse to the interests of its members.

AMMA director of workplace policy Geoff Bull is available for media interviews regarding the Technip decisions and other industrial relations topics. A high-res image is also available.

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