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## Militant union must pay \$2.2m over strike

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The wharfies' union must pay more than \$2.2 million in damages to Patrick and Qube for organising an unlawful two-week strike, a landmark ruling that could serve as a major deterrent for the militant union.

The Federal Court yesterday afternoon ordered the Maritime Union of Australia pay \$1.85 million in compensation to Qube and \$364,725 to Patrick for work bans that shut down Port Botany from late April to early May 2017.

The union must also pay \$30,000 in penalties and its Sydney branch leaders about \$12,500 in individual fines.

The ruling is understood to have sparked the ire of the MUA and is a rare instance of an employer pursuing a damages case against a union all the way to the final court decision. Most companies preferring to settle or withdraw their claims before trial.

The damages, not including hundreds of thousands of dollars in legal costs and interest, mark more than a third of the \$5.9 million in cash the union had on hand as at June.

The ruling comes as the MUA has been threatening supply chains in the past six months leading up to Christmas, with protected industrial action at Patrick's docks and allegedly unlawful work bans at Fremantle Port against DP World.

Australian Mines and Metals Association chief executive Steve Knott, whose members include Qube, said: "This is a very significant penalty that should see members of the maritime union asking serious questions of their elected officials.

"It is membership dues that will pay this significant fine – funds that could be directed towards lawfully advancing the interests of the union's members.

"If an employer organisation copped a \$2.2 million penalty for breaking the law, its leaders would not only be answering members' questions but most likely be looking for other jobs."

The MUA, whose Sydney officials face members at the union's annual meeting today, declined to comment.

A Patrick spokeswoman said it was "pleased that the court has penalised the [MUA] for their continued illegal behaviour".

"Today's decision might remind the union again that they do not own the waterfront, which is an asset for all Australians."

The 2017 dispute erupted when Patrick sub-leased an empty container yard to a subsidiary of its parent company, Qube, that was not covered by an MUA agreement, sparking fears Patrick planned to deunionise the port.

An internal MUA report compared the fight to the union's defining waterfront dispute with Patrick's Chris Corrigan, boasting that the union was determined to see off the challenge "as we did in 1998".

Wharfies held a 24-hour work strike, followed by a three-hour blockade and a week's worth of bans on loading and unloading containers.

Justice Michael Lee found then-Sydney secretary Paul McAleer and his deputy, now branch secretary, Paul Keating, deliberately organised the unlawful bans to disrupt business with the "full support" of the national office.

Wharfies turned to Mr McAleer to tell them what to do, the court found, and Mr McAleer "marshalled" and "rallied" them into stoppages.

Meanwhile, Mr Keating warned Patrick that "the company will be broken or broke".

Qube and Patrick claimed the bans interrupted 776 containers of export

grain, requiring alternative road transport and additional costs to ensure shipment on time.

Qube was forced to spend \$581,357 on subcontractors to transport containers and \$791,416 in late fees that shipping companies charged for not returning empty containers on time. Qube also lost rail revenue of \$355,545 as the stoppages forced it to cancel services, the court found.

Patrick incurred losses of \$364,725 from the bans as a result of engaging extra trucks to clear the resulting congestion, which stretched into late June.

The MUA argued the companies' alleged losses went beyond the actual period of industrial action and so were not caused by it, and claimed that other factors, such as rail cancellations and track closures, had played a role.

Justice Lee upheld most of the stevedores' claims.

He said the MUA's conduct was seri-

ous and the court needed to set penalties high enough to operate as an "effective deterrent".

However, given he had ordered the union to pay "significant compensation", he set a lower penalty than he would otherwise.

The damages order is in contrast to an \$80 million case Victoria International Container Terminals filed against the MUA for blockades in 2017 but which it ultimately settled for a 10-year ban on unlawful industrial action without a payout.

**Today's decision might remind the union again that they do not own the waterfront.**

Patrick spokeswoman



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The ruling comes as supply chains have been under threat. PHOTO: BROOK MITCHELL