

SUBMISSION TO THE FAIR WORK COMMISSION

ON

4 YEARLY REVIEW OF MODERN AWARDS

(s. 156)

Family and Domestic Violence Clause

(AM2015/1)

THE AUSTRALIAN MEAT INDUSTRY COUNCIL

10 APRIL 2017

1. The Australian Meat Industry Council (AMIC) files this very short submission following a short hearing that occurred on 7 April last in matter AM2015/1. AMIC was directly involved in the matter during 2016, filed written submissions and appeared at the final hearing opposing the ACTU claim.
2. The short hearing on 7 April followed a Statement issued by the President 27 March in which three (3) questions were posed concerning procedural matters as to how the matter should proceed. The questions arose because of the resignation of Vice President Watson, effective 28 February 2017. Prior to the resignation taking effect the Vice President issued a decision. The other two members of the Full Bench have not yet published their decision (s). As ACCI pointed out in a filed submission prior to the 7 April hearing '*it would have been highly desirable...*' if other decision(s) had issued.
3. At the 7 April hearing mention was made of a decision of the NSW Supreme Court namely *Morton v The Transport Appeal Board & Anor* (No1) [2007] NSWSC 1454 (*Morton*). Parties were advised that they could, if so inclined, to make comments on the relevance of *Morton* to the procedural matters being considered in the present matter.
4. Put simply, the *Morton* case, a decision of a single member of the NSW Supreme Court, should be given little weight. In *Morton* the bench was considering a completely different statutory scheme. The scheme being considered was analogous to an entity – albeit an entity established by statute - being overseen by a Board with a Chairperson, Vice-Chairperson and procedure for the conduct of meetings. None of the dicta appearing which appears in pp 41 – 48 appears remotely relevant and especially paragraph 41.
5. AMIC has not been able to find authority directly to assist on the procedural issues at hand. However, we reiterate our support for the submissions of the Australian Industry Group.
6. We note the comments of the President at the 7 April hearing and the option of referring a question of law the Full Federal Court under s.608 of the Fair Work Act 2009 and that parties would be given an opportunity to comment if this was proposed.

Australian Meat Industry Council