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Dear Member

UPDATE: Christmas Leave 2013

As advised in a previous newsletter, the RTBU notified PN Coal that a dispute exists in relation to the company deducting annual leave time for employees who applied for annual leave on Christmas day. A day that is recognised as a national public holiday in the national employment standard (NES) under the Fair Work Act 2009.

The current PN Coal EA in our view is not specific whereas the NES is quite specific

Needless to say, and not unexpectedly, the company has a different view. Their view was explained to your Union in a written response to the dispute yesterday.

In short, the company's belief is that because drivers "volunteered" to take the day off, after an expression of interest for annual leave was circulated, they are therefore entitled to deduct annual leave entitlements. They have further stated that the agreement allows for this. We do not believe that it does.

The company maintains that those drivers who did not take leave were expected to remain ready to attend work on Christmas day and were, further, not allowed to take part in normal festive season activities, to quote from the response:

"If a train driver did not elect to put in for leave then as part of the normal operational process would have been rostered on or off for that particular day. As per above some 74 drivers remained rostered on to work on Christmas Day and even if no trains were scheduled they had to remain ready to work i.e. no engaging in festivities especially alcohol related."

It is the view of the RTBU that PN Coal's interpretation of the agreement and the situation is wrong and PN have advised us that in their view the matter is now closed. I have referred the matter to our industrial section who has advised that the only way forward is to list the matter for a conference in the Fair Work Commission. The application for this conference is being filed today.

Whilst there is never a guaranteed outcome from such a conference, at least an independent umpire gets to look at both sides of the dispute and make a recommendation. A date for conference has not been set yet but members will be advised of the outcome.

Bruce Mackie
QLD State President