

Roads and Maritime Services IVRs crib break dispute

IVRs members will be aware the PSA lodged a dispute for an interpretation of the application of the crib break entitlement under the Roads and Maritime Services Consolidated Award 2014.

That dispute was heard before Commissioner Tabbaa today (2016.09.02). The PSA submission revolved around the award's provisions:

Clause 21.2.(c).(iii) states:

- iii. For Employees covered by the classifications of Inspector Vehicle Regulations, the ordinary spread of hours for standard hours shall be 6am to 6pm with a lunch break of not less than 30 minutes in the Employee's time; *or when rostered at an RMS Safety Station; or where required by the Employer*, a 20 minute crib break.

The PSA relied on: *or when rostered at an RMS Safety Station*. The RMS relied on: *or where required by the Employer*. Lengthy and detailed "custom and practice" submissions were made by both parties.

The RMS put on the record two documents:

- *5 Industrial Relations Bulletin – Inspectors Vehicle Regulations – Crib Breaks* (Date of issue August 2005) and,
- *Crib Break Memo – to Inspectors, Vehicle Regulations – Crib breaks* (Date of issue 1.02.08)

In the end, the Industrial Relations Commission preferred the discretionary aspect of the clause and supported the RMS position. The PSA accepts the outcome from the independent umpire.

There was also discussion around a potential back pay claim. The PSA advises members to review the

two documents from the RMS intranet quoted above. If you believe you are entitled to a back pay claim, you will need to gather evidence to support your claim. In the first instance, seek payment using normal RMS pay processes. If you are denied the back pay, please let the PSA know and your back pay claim can be included in the ongoing discussions with the RMS.

Discussion on being called back to duty while on an unpaid lunch break was canvassed. The PSA advises members that if you are on your unpaid lunch break (rotating due to three or more staff being rostered on the shift) and you are required to come off unpaid lunch break to deal with urgent work, members should **report, record and apply** for a crib break using the normal RMS pay processes.

If a crib break applied for in these circumstances is declined, the PSA will take the non-payment up on a case by case basis for individual members as they arise.

What's next?

During the appearance before the Commission today, the PSA activated the "*paid meal break afternoon/night shift*" and "*facilities*" issues as the RMS failed to meet its own requested deadline to respond to the PSA by 31 August 2016.

The Commission asked the parties to exchange additional correspondence on these issues and submit the responses to the Commission for consideration prior to the next report back on the dispute.

The PSA and the RMS have been given a date to report back to the Commission on 14 October 2016. PSA IVRs members will be updated on outcomes after the report back to the Commission.