

24 August 2018

RMS – Surveillance Officer Prosecution – 8.5% Field Work loadings

The PSA was represented by our legal team in the Chief Industrial Magistrates Court on 20-21 August dealing with the prosecution of the RMS regarding the 8.5% loading.

Recap: What Is the PSA Prosecution About?

The PSA claims that those Surveillance Officers entertaining 38hr/week positions should be subject to an 8.5% loading for working field work and as a consequence, have been underpaid.

So What Happened?

Oral submissions were made from both parties over the course of two days. From here the court will provide a transcript of the proceedings and the parties will provide further submissions into the matter.

PSA submissions are due in October with the RMS submissions due for November. The Court set down attendance dates for costs applications in February 2019.

Apart from the industrial arguments, there are a number of complex legal arguments that surround this matter. Put simply there are arguments for and against the PSA claim and this is what is being tested.

What Were the Industrial Arguments?

RMS

Surveillance Officers have never been 35h/w workers dating back as far as Foreman in 1928.

Surveillance Officers are shift workers, predominantly working days' shifts.

There is no direction for Surveillance Officers to work 38hrs/week.

The employment of Surveillance Officers on 35hr/week contracts was in error.

PSA

The RMS Consolidated Salaried Award 2017 and its previous incarnations states that: unless prescribed otherwise in this Award, the ordinary hours of work are 35 hours per week. Surveillance Officers are not subject to terms like COIs.

Surveillance Officers do not work shift work.

There are currently a number of Surveillance Officers that are working 35hr/week, often next to Surveillance Officer working 38hr/week.

The direction to work 38hr/week is implicit and should be interpreted in such a manner.

Contracts that are made in a fashion that do not represent the minimum terms of the Award are unenforceable.

What Was Agreed?

The history regarding the inception of the Surveillance Officer Position all the way back to 1912 through foreman and Superintends was not challenged.

Surveillance Officers are field workers.

And that's about it!

Where to from here?

Nothing changes with regard to the work Surveillance Officers are doing right now. Once a decision is handed down the PSA will be in a position to provide more detail to members.



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In the end an industrial solution to the ‘Surveillance Officer question’ is what is required. As the RMS would not entertain an industrial solution, the PSA was forced to seek this legal outcome.

The PSA will shortly begin discussions with members and the RMS about the upcoming RMS Award that will expire in July 2019. As for proposed changes for Surveillance Officers, the PSA has not looked at anything nor has the RMS provided any proposed changes.

PSA Gives Thanks

The PSA was well represented by our legal representatives from McNally Solicitors. There are been countless hours put into this case in order seek the best outcome for our Surveillance Officer members, over the last two and a half years.

Whilst the case is still not finalised, the PSA must give a big thank you to the RMS workplace delegates and Tom McMullen, Rob Patton and Greg Harris for spending a considerable amount of their own time and stressful attendances in court for all Surveillance Officers.

Even for those Surveillance Officers who aren't PSA members.

Know a non-member? How about you ask them to join today at <https://psa.asn.au/joining-the-psa/>

