



Maritime Officer wins “reimbursement of revalidation expenses” originally rejected by employer

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On 15 May 2020, Hall Payne Lawyers represented the Australian Maritime Officers' Union (**AMOU**) and secured a win for their member regarding a dispute concerning interpretation of the *Smit Lamnalco Towage (Australia) Pty Ltd and AMOU Gladstone Enterprise Agreement 2016 (the Agreement)*.

Background

The worker commenced employment with Smit Lamnalco Towage in August 2015. Under the employer's “Rosters of Work and Operational Standards”, the worker was required to hold and maintain a Global Maritime Distress and Safety System (**GMDSS**) qualification.

The worker undertook the relevant training and requested reimbursement from the employer. The employer rejected the request.

The AMOU contended that its member is entitled to reimbursement of \$2,946.18 in expenses they incurred to obtain revalidation of their GMDSS competency.

The Union filed an application at the Fair Work Commission to deal with a dispute pursuant to s.739 of the *Fair Work Act 2009* (Cth).

The clause in dispute

The dispute concerned two clauses under the agreement. First, clause 22.2 of the Agreement provides an obligation to maintain the:

“Employee’s Certificate of Competency to its present level regardless of the level of qualification required to perform his/her duties.”

Secondly, Appendix 2 of the Agreement makes references to training conditions:

“Revalidations will be provided by the company to the current qualification level held by the employee and any outstanding claims will be back paid on signing of this agreement.”

Hall Payne argued that the clause in Appendix 2 of the Agreement imposes an additional obligation to provide ‘*current qualification level*’ and that this was a broader term than “Certificate of Competency”.

The decision

The Commissioner found that, on interpretation of Appendix 2 of the Agreement, there is an obligation for the employer to maintain the current levels of qualifications, not merely the Certificate of Competency.

Further, the Commission accepted our argument that in light of Appendix 2 being called ‘Additional Conditions’, it provides for obligations that are additional to those outlined in clause 22.2 which is limited to Certificates of Competency.

[You can read the full decision of the Fair Work Commission here.](#)

Conclusion

The worker is entitled to be reimbursed the expenses incurred as a result of the revalidation.

This decision is a significant win for the Union and its members and provides clarity for members to access benefits of any additional obligations of the employer that may exist under the Agreement.

Got concerns about interpretation or implementation of your enterprise agreement?

Hall Payne Lawyers has unrivalled experience in acting for unions in [proceedings for breach of industrial instruments](#).

[Contact one of our employment lawyers to discuss your matter and to see what options might be available.](#)

Legal advice and assistance continues during COVID-19

We continue to provide our client services during the coronavirus outbreak.

Most of our teams have now returned to their respective offices with others remaining fully equipped to work remotely, where necessary.

Contacting Hall Payne Lawyers

You can contact us by phone or email to arrange your consultation; either face-to-face at one of our offices, by telephone or by videoconference consultation.

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