

RECOMMENDATION

Fair Work Act 2009

s.240 - Application to deal with a bargaining dispute



Australian Maritime Officers' Union, The v Svitzer Australia Pty Limited
(B2022/1754)

COMMISSIONER RIORDAN

SYDNEY, 31 MAY 2023

Dear Sir/Madam,

Your Enterprise Agreement has been the subject of a lengthy and unsuccessful interest-based bargaining process and an unsuccessful private mediation over the last three years. However, after 9 months of intense and protracted negotiations, which were characterised by raised voices and persuasive submissions, the parties have finally reached an in-principle agreement.

Like most enterprise agreements, neither party is overly happy with the outcome.

However, the industrial scenario in which the parties are currently placed is unique. The parties have the option of either voluntarily entering into an EA or having the FWC arbitrate the EA. The outcome of an arbitration is unknown and impossible to predict. The parties indicated during negotiations that all provisions of the EA would be the subject of any arbitration. This means that the arbitration is likely to take another 6 – 12 months to complete.

As a result of this uncertainty and further delay, I am prepared to recommend that you vote YES and endorse the proposed Agreement.

I believe that the Agreement delivers pay increases and provides better conditions than what would be achieved during the arbitration process.

Further, any arbitration would result in both parties spending hundreds of thousands of dollars on legal fees. In my view, that is an unnecessary waste of members' money, to deliver what I believe will be an inferior result.

At the end of the day, the decision is yours to make. I can assure you that your Union Officials and Delegates have worked very hard to negotiate the best outcome that was possible in the circumstances. A NO vote guarantees an arbitration.

I recommend you vote YES.

Yours Sincerely,



COMMISSIONER

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