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CONSTRUCTION, FORESTRY, MINING AND ENERGY UNION

and

THE TRUSTEE FOR LIFTMOD UNIT TRUST

**RE: ALLEGED UNDER PAYMENT OF WAGES, ALLOWANCES, HOURS OF WORK AND
UNFAIR/UNLAWFUL DISMISSAL OF CFMEU MEMBER**

22 DECEMBER 2017

025-2017

STATEMENT

[1] The CFMEU notified a dispute on 20 December 2017 concerning the alleged failure by the Employer to pay the appropriate Wages, Allowances, and hours of work, in accordance with the applicable Enterprise Agreement and the alleged unfair and unlawful termination of an employee, a member of the CFMEU.

[2] The applicable Enterprise Agreement is the Liftmod Unit Trust (The Trustee for) T/as Liftmod Pty Ltd and the CFMEU (Victorian Construction and General Division) Enterprise Agreement 2016-2018].

[2] The Panel scheduled a Conference of the parties on 22 December 2017 which was attended by the CFMEU with its member, but the Employer did not attend.

[3] Notwithstanding phone calls made to the Employer, Walter Matthews, by the Chairman on 21 December 2017 to ensure participation, the Employer failed to return these calls and advised the Panel by email of his inability to take phone calls and his unavailability for the Panel proceedings. The Chairperson had advised the importance of a representative to attend.

[4] In the circumstances of an employee being without employment at this time, as a consequence of the Employer terminating the employee's service, the Panel regards the failure of the Employer to provide any representation or assistance to the Panel in this matter, as a failure to meet its obligations under the Enterprise Agreement.

[5] The material submitted by the Union alleges that the Employer terminated the employee on 19 December 2017 after him having raised concerns over underpayment of wages, allowances and hours of work, without notice and for no valid reason.

[6] If the allegations are proven to be correct, the Employer would be in serious breach of the Enterprise Agreement and the Fair Work Act, for which significant penalties can arise.

[7] The CFMEU by notifying a Dispute to the Panel properly exercised its rights in an endeavour to resolve the matter. It is concerning that the Employer did not attempt to reciprocate the reasonable approach of the Union by arranging for its representation.

[8] The Panel notes that the Union and the employee have legal rights to press the claims in other legal forums as well as alerting the relevant authorities to the alleged underpayments and breaches of the Enterprise Agreement. It was also alleged that other employees of the Employer are also being underpaid in relation to the Enterprise Agreement.

[9] The Panel notes that the CFMEU and the employee may proceed to exercise their legal rights but nonetheless the Panel will list the matter for further Conference of the parties, including the Employer, should the matter remain unresolved. In the meantime however the Panel requires the Employer to contact the CFMEU as a matter of urgency in an endeavour to resolve the matter.

[10] During the Conference the Chairperson spoke to the Employer's payroll officer, Denise, who agreed to advise other senior representatives of the Employer, namely Moran and Tristan, to urgently contact the Chairperson. The Chairperson will endeavour to speak with a representative to reinforce the Panel's requirements.

[11] The Panel lists the matter for further Conference on Tuesday 30 January 2018 at 10.00am.



Peter Parkinson
Chairman



Tony Cordier
Panel Member