



VICTORIAN BUILDING INDUSTRY DISPUTES PANEL

CHAIRPERSON: SIMON WILLIAMS

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CONSTRUCTION FORESTRY MINING AND ENERGY UNION

and

BURNS PLANT HIRE PTY LTD

**RE: ALLEGED NON-COMPLIANCE WITH ENTERPRISE
BARGAINING AGREEMENT**

31 August 2015

010-2015

DECISION

[1] This decision arises out of a notification lodged by the Construction Forestry Mining and Energy Union (“the CFMEU”) of a dispute between it and Burns Plant Hire Pty Ltd (“the employer”) concerning alleged non-compliance by the employer with various clauses of the *Grant Andrew Burns Family Trust T/as Burns Plant Hire and the CFMEU Civil Construction Industry Enterprise Agreement 2011-2015* [AE896986; PR529313] (“the Agreement”).

[2] The matter came on for conference before the Panel on 12 August 2015. There was no appearance by or on behalf of the employer at that conference. The matter was then listed for hearing on 26 August 2015. Attached to the Notice of Hearing sent to the parties was a copy of the File Note dated 12 August 2015 which recorded, amongst other things, that there had been no appearance by the employer at the conference and that, if the employer did not attend the hearing without reasonable excuse, the hearing might proceed and the matter may be determined in its absence.

[3] At the hearing on 26 August 2015, the CFMEU continued to press its claim that the relevant member had been underpaid in respect to wages and termination of employment and that entitlements as to CBUS, Incolink and CoInvest contributions had not been met by the employer. It also claimed that, in discussions it had had with the employer, the employer had not denied that moneys and contributions are owed but had contested the amounts alleged to be owed. Since the employee's employment was terminated in December 2014, various amounts had been paid into his bank account by the employer. However, without access to the employer's records or without the provision of suitable paperwork, the CFMEU is unable to determine what the amounts are intended to represent.

[4] The Panel is satisfied that the CFMEU has taken all steps available to it under the dispute resolution procedure contained in the Agreement. In the absence of any response from the employer, it can only conclude that there appears to have been some non-compliance with the terms of the Agreement but it is unable to quantify that non-compliance. It is now a matter for the CFMEU to decide what further action it may wish to take in respect to the matter.



SIMON WILLIAMS
CHAIRPERSON



TONY CORDIER
PANEL MEMBER



DANIEL HODGES
PANEL MEMBER

DATE: 31 AUGUST 2015