



Chairman: Peter Parkinson  
UNIT 1, 233 CARDIGAN STREET  
CARLTON SOUTH VIC 3053  
A.C.N. 110 263 182  
TEL: 03 9348 2613 FAX: 03 9348 2714  
[dboard@vbidb.org.au](mailto:dboard@vbidb.org.au)  
[www.vbidb.org.au](http://www.vbidb.org.au)

**CONSTRUCTION, FORESTRY, MINING AND ENERGY UNION (CFMEU)**

**and**

**THE TRUSTEE FOR MELBOURNE FACADES TRUST  
T/AS MELBOURNE FACADES PTY LTD ( MELBOURNE FACADES)**

**RE: ALLEGED NON PAYMENT OF LIVING AWAY FROM HOME ALLOWANCE**

**8 MARCH 2019**

**002-2019**

**STATEMENT**

[1] The CFMEU notified a dispute on 4 March 2019 affecting two former employees concerning the alleged non payment by Melbourne Facades of Living Away From Home Allowance pursuant to the Enterprise Agreement [*The Trustee for Melbourne Facades Trust t/as Melbourne Facades Pty Ltd and the CFMEU (Victorian Construction and General Division Agreement 2016-2018)*].

[2] The Panel convened a Conference of the parties on 8 March 2019.

[3] Melbourne Facades indicated that it had been unable to obtain instructions from its principal as to the allegations.

[4] The CFMEU and its two members affected provided further details as to the application of the relevant clause of the Enterprise Agreement, namely Appendix I.

[5] There appears to be no dispute over the residential circumstances of each of the employees or the nature and period of their engagement or their places of work for the employer during the period of their employment.

[6] The fundamental question to be determined, having regard to all the circumstances, is the provision of sub clause 1.1 (a) (ii) of Appendix I. That is whether “*it was not reasonable to expect the employee to return each night*” to their usual place of residence.

[7] Having regard to the request of Melbourne Facades that it seek instructions in relation to the matter, and it now having been fully appraised of the position of the CFMEU and its members, the Panel has determined to list the matter for further Conference and Hearing on **Tuesday 19 March 2019 at 10.00am**. In absence of a settlement in Conference, the Panel will then immediately take final submissions from both parties from which the Panel will then proceed to decide the matter.

[8] Should the matter proceed to final submissions the Panel will expect to be addressed on all relevant aspects.

[9] In the meantime the Panel encourages the parties to confer in an endeavour to resolve the matter. In the event that the matter is settled, the parties are to notify the Panel at the earliest opportunity and the Conference and Hearing will be set aside.



**Peter Parkinson**  
**Chairman**



**Daniel Hodges**  
**Panel Member**



Chairman: Peter Parkinson  
UNIT 1, 233 CARDIGAN STREET  
CARLTON SOUTH VIC 3053  
A.C.N. 110 263 182  
TEL: 03 9348 2613 FAX: 03 9348 2714  
[dboard@vbidb.org.au](mailto:dboard@vbidb.org.au)  
[www.vbidb.org.au](http://www.vbidb.org.au)

**CONSTRUCTION, FORESTRY, MINING AND ENERGY UNION (CFMEU)**

**and**

**THE TRUSTEE FOR MELBOURNE FACADES TRUST  
T/AS MELBOURNE FACADES PTY LTD ( MELBOURNE FACADES)**

**RE: ALLEGED NON PAYMENT OF LIVING AWAY FROM HOME ALLOWANCE**

**19 MARCH 2019**

**002-2019**

**STATEMENT NO. 2**

[1] The CFMEU notified a dispute on 4 March 2019 affecting two former employees concerning the alleged non payment by Melbourne Facades of Living Away From Home Allowance pursuant to the Enterprise Agreement [*The Trustee for Melbourne Facades Trust t/as Melbourne Facades Pty Ltd and the CFMEU (Victorian Construction and General Division Agreement 2016-2018)*].

[2] The Panel convened a Conference of the parties on 8 March 2019 and issued a Statement which is to be read in conjunction with this Statement.

[3] A further Conference and Hearing was held on 19 March 2019.

[4] The parties confirmed they had been unable to settle the matter. The Panel proceeded to formal Hearing and took submissions from the parties.

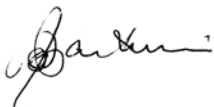
[5] The CFMEU tabled an Outline of submissions which was marked CFMEU 1, together with Statements from both affected former employees and extracts from the *Thiess Degremont(“TD”) and AMWU, AWU, CEPU and CFMEU Victorian Desalination Project Greenfields Agreement 2009*. It also relied upon the material included in its email to the Panel dated 18 March 2019 which was also provided to Melbourne Facades.

[6] Melbourne Facades presented its submissions.

[7] During the course of the submissions, the former employees and also representatives of Melbourne Facades, provided oral evidence to the Panel.

[8] Having regard to the issues in question, the Panel determined that in the first instance that it would adjourn the proceedings for a period to enable the parties to genuinely attempt to settle the matter between them and, should they wish, make further written submissions to the Panel on any aspect of the matters raised by the Panel.

[9] In absence of settlement, the matter will then proceed to final Hearing on Wednesday 10 April 2019 at 10.00am at the Panel’s premises, arising from which the Panel will determine the matter.



**Peter Parkinson**  
**Chairman**



**Tony Cordier**  
**Panel Member**



**Daniel Hodges**  
**Panel Member**



Chairman: Peter Parkinson  
UNIT 1, 233 CARDIGAN STREET  
CARLTON SOUTH VIC 3053  
A.C.N. 110 263 182  
TEL: 03 9348 2613 FAX: 03 9348 2714  
[dboard@vbidb.org.au](mailto:dboard@vbidb.org.au)  
[www.vbidb.org.au](http://www.vbidb.org.au)

**CONSTRUCTION, FORESTRY, MINING AND ENERGY UNION (CFMEU)**

**and**

**THE TRUSTEE FOR MELBOURNE FACADES TRUST  
T/AS MELBOURNE FACADES PTY LTD ( MELBOURNE FACADES)**

**RE: ALLEGED NON PAYMENT OF LIVING AWAY FROM HOME ALLOWANCE**

**10 APRIL 2019**

**002-2019**

**STATEMENT NO. 3**

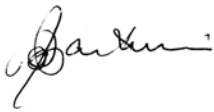
[1] The CFMEU notified a dispute on 4 March 2019 affecting two former employees concerning the alleged non payment by Melbourne Facades of Living Away From Home Allowance pursuant to the Enterprise Agreement [*The Trustee for Melbourne Facades Trust t/as Melbourne Facades Pty Ltd and the CFMEU (Victorian Construction and General Division Agreement 2016-2018)*].

[2] The Panel issued Statements on 8 and 19 March 2019 which are to be read in conjunction with this Statement.

[3] A Hearing was scheduled for 10 April 2019. The parties each made further written submissions on 9 April 2019.

[4] Prior to the Hearing commencing, the parties conferred, arising from which the Panel was advised that an in principle agreement had been reached. The parties advised they were committed to formally settling the terms during the course of the day.

[5] On this basis, the Panel congratulated the parties on their efforts, and subject to written confirmation from the CFMEU that the matter is settled, the Panel will close the file.



**Peter Parkinson**  
**Chairman**



**Tony Cordier**  
**Panel Member**



**Daniel Hodges**  
**Panel Member**