

Sydney Train Strike

Potential for Class Action against Union

24 January 2018

The Fair Work Commission (Commission) hearing to stop the Sydney train strike and related overtime bans resumes at 8am Thursday, 25 Jan. This legal action was initially launched by Harmers Workplace Lawyers on Tuesday afternoon and then joined on Wednesday by the Minister, Sydney Trains and others.

The yes vote to go ahead with the strike indicates why our legal action was necessary.

Today we have made the very important point to the Commission that the RTBU union leadership is at substantial risk of a class action for having misled their members as to the potential consequences of their industrial action. By not fully explaining to their members that if the strike is found by the court not to be “protected” under the legislation, then companies and individuals who suffer economic loss as a result of the industrial action could sue as a class. Individual union members might also be at risk.

The damages, from the overtime bans alone, will already be significant and will mount up on Thursday. If the strike itself goes ahead, then the damages will be a multiple amount. Already there are estimates of around \$100m or more.

Our considered view is that the strike is not “protected” under the legislation, but is to a significant extent a demarcation dispute.

Harmers Workplace Lawyers has an established record of pursuing legal cases which we believe are in the public interest. This was clearly one of them. We have acted for some of the largest unions and also some of Australia’s largest and most prominent employers. We are proud of our efforts also to protect the rights of individual employees in very difficult workplace circumstances.

Harmers Workplace Lawyers has acted for major rail employers, including RailCorp, and a major Rail union many years ago. Presently the firm is acting against Sydney Trains in an employment dispute. This legal action has not been prompted in any way by Sydney Trains, NSW Trains, the NSW Government or any other party.

The Commission hearing is now set down to resume 8am 25 January in the Fair Work Commission, Hearing Room 15.1 80 William St. East Sydney.

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