



ORDER

Fair Work Act 2009

Section 229 - Application for a bargaining order

Lion - Beer Spirits & Wine Pty Ltd

v

United Workers' Union

(B2020/795)

DEPUTY PRESIDENT ANDERSON

ADELAIDE, 8 DECEMBER 2020

Application for a bargaining order

A. Pursuant to sections 230, 231 and 232 of the *Fair Work Act 2009* (the FW Act), the Commission orders as follows:

1. The United Workers' Union (whether by itself, its officers, servants, agents or howsoever described) be restrained from:
 - a. Preventing, hindering or interfering with, or attempting to prevent, hinder or interfere with, free access to and free egress from the Site by any person or vehicle, whether by themselves or by any object or vehicle; and
 - b. Advising, causing, inducing, procuring or inciting any person to do or attempt to do any of the things restrained by sub-paragraph 1(a) of these orders.
2. The bargaining order does not preclude the taking of protected action consistent with the FW Act.
3. By 12.00 noon on the day after these orders are issued (9 December 2020), the United Workers' Union must send an email to each of its employees, officers and delegates who have had any involvement or association with the Site and the negotiations for the Proposed Agreement and for whom it has an email address, attaching a copy of these orders and containing a message in the following terms:

“The Fair Work Commission has made a bargaining order. The order, during its period of operation, restrains the United Workers' Union (including through its officers, servants and agents) from preventing, hindering or interfering with persons or vehicles accessing or exiting the West End Brewery site at 107 Port Road, Thebarton, South Australia 5031. You are hereby advised that the United Workers' Union no longer authorizes or supports any

obstruction of access to, or egress from, that site whilst the bargaining order is in operation.

Specifically, as an employee, officer or delegate of the United Workers' Union, you must not, whilst the bargaining order is in operation:

- (1) prevent, hinder, interfere with, or attempt to prevent, hinder or interfere with, free access to and free egress from the West End Brewery site by any person or vehicle; or*
- (2) advise, cause, induce, procure or incite any other person to do so.*

For further details regarding what you must not do, please review the bargaining order, a copy of which is attached to this email.

The bargaining order does not preclude the taking of protected action consistent with the FW Act."

4. By 12.00 noon on the day after these orders have been issued (9 December 2020), the United Workers' Union must:
 - a. send an email to each of the Employees who are its members and for whom it has an email address; and
 - b. send an SMS text message to each of the Employees who are its members and for whom it has a mobile phone number, containing a message in the following terms:

"The Fair Work Commission has made a bargaining order. The bargaining order, during its period of operation, restrains the United Workers' Union (including through its officers, servants and agents) from preventing, hindering or interfering with persons or vehicles accessing or exiting the West End Brewery site at 107 Port Road, Thebarton, South Australia 5031. You are hereby advised that the United Workers' Union no longer authorizes or supports any obstruction of access to, or egress from, that site. The bargaining order does not preclude the taking of protected action consistent with the FW Act."
5. By 12.00 noon on the day after these orders have been issued (9 December 2020), the United Workers' Union must:
 - a. post on its Facebook page at "United Workers Union" (<https://www.facebook.com/UnitedWorkersOz/>);
 - b. post on its Facebook page at "United Workers Union Members Forum" (<https://www.facebook.com/groups/2456123934676658/>); and
 - c. post prominently on the news page of its internet site (<https://www.unitedworkers.org.au/news/>), a copy of this order and a message in the following terms:

“The Fair Work Commission has made a bargaining order. The bargaining order, during its period of operation, restrains the United Workers’ Union (including through its officers, servants and agents) from preventing, hindering or interfering with persons or vehicles accessing or exiting the West End Brewery site at 107 Port Road, Thebarton, South Australia 5031. You are hereby advised that the United Workers’ Union no longer authorizes or supports any obstruction of access to, or egress from, that site. The bargaining order does not preclude the taking of protected action consistent with the FW Act.”

6. In this order:
- a. **“Current Agreement”** means the *West End Brewery Technicians’ Enterprise Agreement 2017*;
 - b. **“Employees”** means the employees of Lion - Beer Spirits & Wine Pty Ltd whose employment is covered by the Current Agreement and whose employment will be covered by the Proposed Agreement;
 - c. **“Lion”** means Lion - Beer Spirits & Wine Pty Ltd;
 - d. **“Proposed Agreement”** means the proposed enterprise agreement to replace the Current Agreement, being negotiated between Lion, the United Workers’ Union, the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia, the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union, known as the Australian Manufacturing Workers Union, and the Employees; and
 - e. **“Site”** means the West End Brewery site at 107 Port Road, Thebarton, South Australia 5031.
7. This order comes into operation at 12.01am on 9 December 2020 and ceases to be in operation at the earliest of the following:
- a. if the order is varied or revoked – the time specified in the instrument of variation or revocation;
 - b. when the Proposed Agreement is approved by the Commission;
 - c. when a workplace determination that covers the Employees comes into operation;
 - d. when Lion and all bargaining representatives for the Proposed Agreement agree that bargaining has ceased.



DEPUTY PRESIDENT

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