

THE AUSTRALASIAN MEAT INDUSTRY EMPLOYEES' UNION

(Federal Council)



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25 January 2019

**Renaë Harding
Jackson McDonald
GPO Box M971
Perth W.A. 6843**

By email only to: rharding@jacmac.com.au

Dear Renaë,

Re: The Western Australian Meat Marketing Co-operative Limited (WAMMCO) – Katanning

The Australasian Meat Industry Employees Union (**AMIEU**) confirms receipt of your letter dated 24 January 2019.

Basis for calculations and general protections

We note your statements that:

1. *“WAMMCO has **not yet established the basis nor the method** for conducting the calculations”,*
2. *“the calculations are not significantly advanced”,* and
3. Mr Bessell *“had **taken one employee’s wage history** and applied what he believed to be the correct payment rates to ascertain an indicative outcome”.*

(Emphasis ours.)

Mr Bessell presented the outcome of his calculation during a meeting with two (2) AMIEU Officials and an AMIEU Member on Thursday 17 January 2019.

We note that you have made a number of assertions concerning Mr Bessell’s statements during that meeting. Please note that:

1. we disagree with a number of the assertions made in items 2(d)(i) and (ii) of your letter, and

2. we wholly reject the assertions made in items 2(d)(iii) and (iv) of your letter.

Mr Bessell's conduct is deeply concerning given your admission that there was no basis for his calculation and no determined method for undertaking the calculation.

The worker singled out by Mr Bessell – the only worker for whom Mr Bessell performed an apparently baseless calculation – is an AMIEU Delegate and an Applicant in the application to terminate the *WAMMCO International (Katanning) AMIEU Processing Agreement (2013) (Enterprise Agreement)*.

It is our view that Mr Bessell has acted in contravention of the general protections of the *Fair Work Act 2009*.

We ask that Mr Bessell immediately refrain from further conduct that alters the worker's position to his prejudice and/or injures him in his employment.

The AMIEU and our Member reserves our rights with respect of the conduct that has already occurred.

Alleged overpayment

We note that you are still yet to sufficiently detail the basis for the alleged overpayments; you have merely stated that "*the overpayments relate to higher overtime rates that have been paid to employees*".

We are unsure what "higher overtime rates" are being referred to. It is our understanding that WAMMCO has paid overtime at time and a half of the base rates of pay.

Doing so is consistent with the following.

1. At the time of voting for the Enterprise Agreement, workers were reportedly advised that overtime would be paid at time and a half of the base rates of pay.
2. When applying to the Fair Work Commission for approval of the Enterprise Agreement, Mr Bessell signed a statutory declaration which stated "All overtime at time and a half."
3. Employee payslips bear the categorisation "T/HALF" with respect of all overtime hours.
4. WAMMCO appears to have paid overtime at time and a half of the base rates of pay for the life of the Enterprise Agreement.

WAMMCO is entitled to pay workers whatever it wants, provided that no worker is *underpaid* against the relevant industrial instruments.

Given the above, it is our preliminary view that no administrative error or mistake has been made; rather

WAMMCO has consistently paid overtime at time and a half of base rates of pay as it told workers and the Fair Work Commission that it would.

In our view, it would be disingenuous for WAMMCO to suggest that it is somehow entitled to assert an alleged overpayment in these circumstances. Certainly, such a suggestion would be wholeheartedly rejected by the hardworking and loyal workforce at Katanning as being, at the very least, in considerably bad faith.

Please be advised that a copy of this letter and the company's response will be provided to our Members.

Please note that, as foreshadowed in our 22 January 2019 correspondence, we intend to provide a copy of your 24 January 2019 letter to our Members. If you object, please provide the basis for your objection by 4:00pm (CDT) today, Friday 25 January 2019.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'KRISTEN ROGERS', with a stylized flourish at the end.

Kristen Rogers
National Industrial Officer
Australasian Meat Industry Employees Union