

ACTUS WORKPLACE LAWYERS

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FWC appeal decision clarifies the difference between collective and individual notice requirements

A Full Bench of the FWC has clarified the difference between individual and collective notice obligations in redundancy scenarios. Actus Workplace Lawyers successfully represented Downer EDI Rail in the appeal proceedings.

The case related to a group of employees working on a contract between Downer EDI Rail and the Victorian Government for the testing and commissioning of trains for the Melbourne passenger network. The contract was due to conclude within 12 months and labour was being wound down over the period.

The relevant Downer EDI enterprise agreement contained a clause requiring that the company give at least three months' notice to the employees covered by the agreement, *"should the Company be no longer required to provide labour to perform testing and commissioning activities"* on the project.

At first instance, Commissioner Tran accepted the CEPU's argument that the clause had the effect of extending the notice of termination period for individual employees and ordered that the company back-pay the employees who had already been made redundant for the additional notice entitlement.

However, in [*Downer EDI Rail v CEPU* \[2025\] FWCFB 65](#), a Full Bench of the FWC overturned Tran C's decision. The Full Bench decided that the clause in the enterprise agreement was a collective notice requirement, rather than notice of termination to individual employees.

The Full Bench observed that the relevant clause is *"a type of provision well known to industrial law and practice. It establishes a collective notice requirement. Such provisions have long been a common feature of the industrial landscape. They are distinct from provisions that require employers to give notice of termination of employment to individual employees"*.

For further advice on redundancy or enterprise agreement issues, please contact Stephen Smith, Principal of Actus Workplace Lawyers on 0418 461 183 or Email: stephen.smith@actuslawyers.com.au.