



STATEMENT

Fair Work Act 2009
s.739—Dispute resolution

Australian Education Union-Northern Territory Branch

v

Commissioner for Public Employment
(C2017/6305)

**NORTHERN TERRITORY PUBLIC SECTOR TEACHER AND
EDUCATOR 2014 - 2017 ENTERPRISE AGREEMENT**
(ODN AG2014/10771) [AE412195]

Northern Territory

COMMISSIONER BISSETT

DARWIN, 6 DECEMBER 2017

Application of recreation leave entitlements for urban-based teachers over the Christmas-New Year break 2017-2018 - whether entitlement to six continuous weeks break - whether custom and practice applies.

1. Introduction

[1] This matter relates to a dispute between the Australian Education Union-Northern Territory Branch ('the Union') and the Commissioner for Public Employment ('the Commissioner') about the application of recreation leave entitlements for urban-based school-based employees during the Christmas-New Year school vacation for 2017-2018. The matter was referred to the FWC as currently constituted through clause 13.4 in the dispute settlement procedures of the Northern Territory Public Sector Teacher and Educator 2014-2017 Enterprise Agreement (AE412195) ('the Agreement').

[2] The parties attempted to resolve the dispute through use of the dispute settling procedures of the Agreement. It was agreed by the parties that those procedures had been followed and that the provision in the Agreement empowered the FWC to resolve the dispute either by conciliation or arbitration.

2. Issues

The Union's Submissions

- [3] The Union submitted that the current gazettal of teaching terms resulted in:
- a. an effective loss of one day's recreation leave for Northern Territory public school teachers in urban regions; and
 - b. urban public school teachers being disadvantaged by a variation of recreation leave not outlined in the Agreement at clause 58.
- [4] Further, the Union submitted that this was a matter of concern for its urban members.

The Commissioner's Submissions

- [5] The Commissioner submitted that the Union's concerns were based on a misunderstanding of the interaction of recreation leave and public holidays.
- [6] While noting the concerns of the Union's urban members, and that the Union had offered potential avenues by which the dispute may have been resolved, the Commissioner argued that a potential resolution of the dispute that involved alteration of term dates and other arrangements was impracticable at this time.

3. Consideration of the issues

- [7] The current configuration of recreation leave and public holidays presented a challenge for urban teachers that would be unlikely to occur on a regular basis, but effective resolution of the issue in this instance would be impracticable given the proximity of the end of the school year.

4. Recommendation

- [8] Although it is beyond the jurisdiction of the FWC to issue orders or recommendations about the gazettal of school terms in the Northern Territory, it is recommended that the parties work together to avoid similar situations in the future via timely consultation.

