



In whose interest is the rail strike declared 'unlawful'?

A strike by the Rail, Tram and Bus Union in relation to a claimed 5% pay rise from its Government employer has been declared unlawful by the Fair Work Commission. The Commission made this finding following intervention in the industrial dispute by the NSW Minister for Industrial Relations, Dominic Perrottet.

NSWCCL is deeply concerned with both the decision of the Fair Work Commission and the actions of the Minister in this case. The decision may effectively ban future strike action.

Commissioner Jonathon Hamberger of the Fair Work Commission prevented the strike by deciding that industrial action would pose a risk to Sydney's economy and safety. While this decision and the Minister's intervention are permitted by the Fair Work Act, this intervention is an unprecedented and significant impost on the civil liberties and human rights of Australian workers.

This decision imposes unacceptable restrictions on the right to strike - a fundamental civil liberty and human right. By preventing industrial action, this decision removes the ability of workers to withhold their labour to negotiate terms and conditions of their employment, without an agreement of just terms between the parties.

Further, the actions of the Minister interfere with a legitimate bargaining process by exercising undue influence over the work of a supposedly impartial tribunal and interfering with its supposedly independent power and functions.

Such interference is particularly concerning in this case where the State holds a direct pecuniary interest in the bargaining process in respect to the contested pay rise. The actions of the Minister not only interfere with the due process of a tribunal but give rise to a conflict of interest.

Finally, there is a considerable and contestable issue of whether any 'economic damage' would be done to the Australian economy by this strike.

As the central reason for the decision, it ignores the finding the Reserve Bank which recently advised that Australian workers require a dramatic pay rise to keep pace with the cost of living and to maintain the economy running of the economy.

NSWCCL considers the long term depression of workers' wages in Australia poses a far more significant threat to the economy and the public good than the legitimate use of industrial action by workers for better pay and conditions.

If the Fair Work Act allows this finding it should be amended.

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