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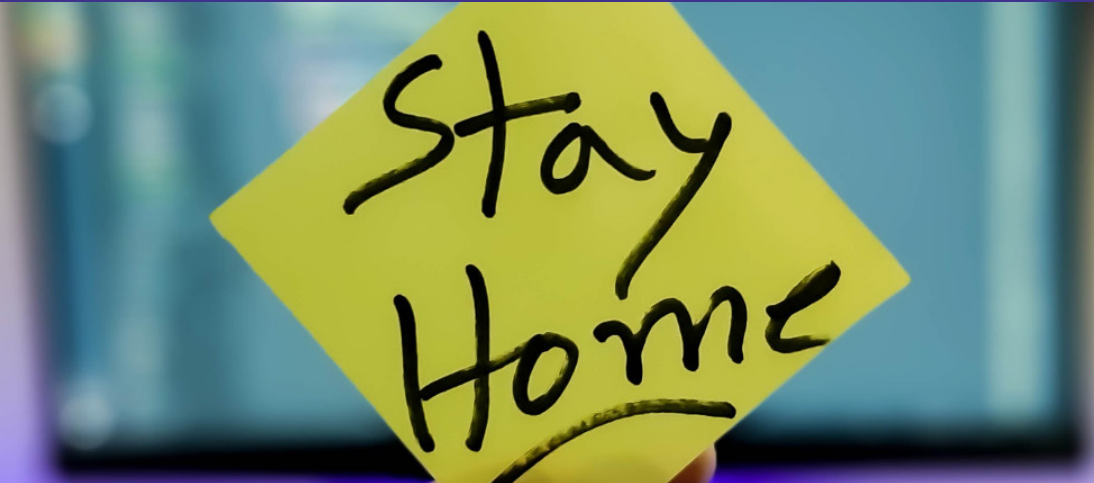


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Backpay Win over COVID-19 Isolation



Members at Appin Lodge have won backpay after winning a dispute over being forced to take unpaid or annual leave for COVID isolation in measures that went beyond public health orders.

The win, which could have broader application across the union and beyond, means that some members will now be paid as if at work for time taken off to take a PCR and isolate as directed by South32.

During December 2021 and January 2022, South 32 directed a significant number of members not to attend work for a period in circumstances where they believed a member had been exposed to COVID-19. Members were either placed on annual, personal, or unpaid leave.

The Union took the dispute to the Fair Work Commission, with members giving evidence about the various scenarios in which they were required to take leave.

The Commission found that members were entitled to be paid as if at work for some of the time and were entitled to personal leave some circumstances. The decision means that some members who were on unpaid leave while directed not to attend work will receive backpay and some members who had annual leave deducted will have that leave recredited.

For members directed to take a PCR and isolate after 30 December 2021, the decision of the Fair Work Commission is an important win

that is significant not just at Appin, but for the Union and beyond. It is the first time a case of this nature has been lodged and won.

The finding that employees are entitled to access personal leave rather than annual leave or unpaid leave for the period before 30 December 2022 is also a significant win for members who had annual leave deducted while isolating.

While some affected members who were directed to take a PCR and isolate before 30 December did not experience the full win, a decision was made that appealing the decision would risk overturning the gains made.

About 90 members at Appin will benefit backpay or credited leave from the Fair Work Commission's decision in this matter.

District Vice President Bob Timbs thanked the Lodge members who put up their hands to participate in the case and the legal team's dedication to running the matter to a successful outcome.

"Everyone was committed to having a Covid-safe workplace, but South 32's actions in directing people not to attend work were heavy-handed.

"We are grateful to the Lodge members who put their hand up to stand up for a fair go. Without their commitment, this win wouldn't have happened."



Families grinning in BHP parental leave win

Apprentices and trainees employed by BHP Coal can access paid parental leave in an important win fought for by unions.

Our members Paige Martin and Jordan Lynch are the proud parents of baby Nova. Paige is an apprentice and Jordan is a tradesman at Peak Downs in central Queensland.

Paige initially applied for paid parental leave but was knocked back. “It was devastating when they said I wasn’t eligible for paid parental leave, especially since this is my fourth year with the company,” she said.

BHP’s parental leave policy previously said that as fixed term employees, apprentices and trainees were not eligible for paid parental leave.

However, unions argued that apprentices and trainees were eligible for paid parental leave because they are covered by the BMA Central Enterprise Agreement, which provides for paid parental leave.

The MEU, jointly with CEPU and the AMWU, lodged a dispute with the Fair Work Commission for an apprentice at Blackwater

mine who had been denied paid parental leave under this policy.

The matter was resolved by BHP agreeing to provide paid parental leave to existing trainees and apprentices and recognise prior applications for leave entitlements that were rejected back to May 2018.

“After the Union won the paid parental leave win, I was told by the Union to apply for paid parental leave again. I’m now receiving paid parental leave and I got backpaid to 15 August which was my due date.

“It’s been a massive stress relief. This was a great win, whether it’s for mums who want to take the time, or for dads who want to stay home while their partner goes back to work. It’s great for all parents.”

Her partner Jordan said accessing parental leave had given the new family time to get established. “It’s helped give us the time to plan what’s next, whether that’s time to plan childcare arrangements or whatever else we need to do for Nova, and it’s just help set our family up,” he said.

'Don't be scared to put your hand up'

Blackwater No 1 Lodge Secretary Jenna Saunders was awarded 'Delegate of the Year' at the recent Queensland District Awards Night. We caught up with Jenna about what she loves about being a Union Delegate.



How long have you been a Union member and how did you get involved as a Delegate?

I have been in the Union for about ten years, and I have been active for eight years since I became Assistant Secretary of my Lodge. What happened was two union members approached me and said I should run for Assistant Secretary. They offered to be my Campaign Managers and support me, and I thought there would be a campaign. But then I got a call from the President of the Lodge, Greg Donohue who said 'Congratulations Jenna, you are now our Assistant Secretary'. I haven't looked back since. I'm really grateful that those two members came to see me and encouraged me to get involved because it's why I am here today.

What were some memorable moments as a Delegate this year?

The whole year has been memorable. I helped facilitate the QLD Women's Conference

which I was really proud of. Also being from a smaller worksite, it was great to meet with and socialise with other members from other pits. In terms of memorable moments, I really love being able to help members out with individual issues or disputes. Whenever I can help someone out as a Union Delegate is a memorable moment.

What was a Union win you were part of this year?

We won paid parental leave for apprentices and trainees which I was really proud of. The BMA Central Agreement covers sites like Blackwater, Goonyella, Peak Downs and the Saraji mines. They're all owned by BMA and have one EA. We ran the dispute at the Fair Work Commission, and we were able to make sure all workers on each of the sites were being paid the entitlements they deserved. I got a phone call that a young girl at another pit got paid all her money back and it was a special moment that our dispute didn't just help the members right around me but helped other people working in other pits too. It was an important win because it helps people to prepare for life with a child.





What does being a Delegate mean to you?

It's about remembering that workers aren't in it alone and we're all standing alongside one another. When people have a concern at work, we help them find their voice and as Delegates we remind these companies about their obligations. When people say thank you because you've been able to fix something for them, I really appreciate it. There's been some moments where members have approached me with an issue, and I've made a phone call. Then a week later the member tells me the issue has been fixed. I always appreciate those moments.

How did you learn how to be a Delegate and how do you feel about winning Best Delegate?

Training is a big thing, so we receive Delegate training, and the Union supports you in being a Delegate. I've had some great people around me who have helped me to the position I am,

for example Greg has been a supporter of mine and I've learned a lot from him. When I was told I was even nominated to be Delegate of the Year I laughed, and I thought 'Oh gosh!'. I feel very humbled, and I think it's great that we're recognising our members in this way.

Do you have any advice for someone thinking about becoming a Delegate?

Don't be scared to put your hand up. There's so much support around you to become a Delegate in our great Union. There's support from your District, the Officials, the National Office and other members. What we're trying to do is listen, help and learn and anyone can do it and it's very rewarding.

I'm really grateful to the Mining and Energy Union for this great opportunity to be a Delegate, and it's really helped my development and it's something I'm very proud of.

Legal win against dodgy fixed term contracts

An important legal win by our union will make it harder for mining companies to use fixed and 'maximum' term contracts to avoid paying termination and redundancy entitlements.

In a decision concerning the termination of contractor mineworkers at Narrabri underground coal mine in NSW, the Fair Work Commission has ruled that if employers retain an unqualified right to terminate employment, a contract can't be classified as 'fixed term'.

The FWC also determined that employers can't use 'maximum term' contracts

described as running for the length of a project in circumstances where employees have no way of knowing when that project will come to an end.

The decision will have a significant impact across the industry because employers have shifted to fixed and maximum term contracts to avoid offering permanent entitlements as laws have tightened over the use of long-term casuals.

In June 2020, workers employed by Falcon Mining (part of the Mastermyne Group) lost their jobs when Whitehaven terminated Falcon's contract at Narrabri.

The Union's application to the Fair Work Commission concerned the proper characterisation of employment and workers' claims to a range of entitlements following the termination of employment.

The decision means that Falcon and other mining contractors and labour hire companies will have to offer permanent or other modes of employment if they would like to retain the right to terminate, or if the term of contract isn't defined.

Jeremy McWilliams, Vice-President of the Northern Mining and NSW Energy District, said the decision in the long-running Falcon matter was significant

in challenging an emerging form of exploitation across the industry.

"Fixed term is the new casual tort," he said.

"When pursuing this case, we looked at workers' contracts and proved that these workers were not actually fixed term, they were something else.

"It is often too easy for employers to manufacture circumstances to deprive employees of their redundancy entitlements. These wins will make it easier for the Union to pursue termination and redundancy entitlements for workers."

Lifesaving 'Dust Bus' coming to a regional centre near you

Former and retired mineworkers are urged to register for lung screening onboard the purpose-built Heart 5 'dust bus'.

In February this year, the first-of-its-kind HEART 5 mobile medical imaging clinic was launched in collaboration with Resources Health and Safety Queensland (RHSQ) to deliver a free lung screening program to former and retired mine and quarry workers.

The mobile clinic was campaigned for by our union and was a recommendation of the Black Lung White Lies Parliamentary Inquiry to address the crisis of undiagnosed mine lung dust disease in the state.

The Queensland Dust Disease Support Group - a volunteer organisation led by retired miners - proudly recruited the first 200 retirees to be tested by the new custom mobile health unit.





Archie Tudehope (centre) with Senator Murray Watt and Queensland MP Julieanne Gilbert at the launch of the Heart 5 'dust bus'

Since then, the program has screened almost 450 former and retired workers for mine dust lung diseases such as black lung and silicosis.

Retired mineworker and unionist Archie Tudehope was instrumental in getting the program up and running as well as organising the support group.

“We know that mineworkers sometimes don’t receive their exit medical,” he said.

“We initially got a group of people together to get them tested through RHSQ but it was a bit chaotic organising appointments, particularly when we were dealing with 80-year-old retirees who might need to travel from Emerald to Rockhampton, which is about a six hour round trip.

“Sometimes we would have instances where retirees had to travel and were put up in a motel on the second or third floor they couldn’t even walk up.

“We realised that system wasn’t working, so that’s how the truck was born, so it could travel to retired mineworkers and those wouldn’t get tested otherwise did get tested.

“This was also important for follow ups because people felt lost, and they needed some guidance. A lot of the people affected are retirees and asking them to pick up a laptop or join a zoom call to get more information just wouldn’t be realistic for them.

“This program is also collecting very valuable information and giving us statistics about this disease.”

The end-to-end service includes a basic screening of breathing test, x-ray and examination, and provides diagnostic workups of lung function tests, high resolution CTs, respiratory specialist consults and expert reviews of complex cases.

For these former and retired workers who are often disadvantaged by distance and mobility, providing a one-stop-shop through HEART 5 means that they can access healthcare right there on their doorstep.

To stay up to date with HEART 5’s movements visit <https://www.heartofaustralia.com/timetable/>

WIN: BHP must pay over labour hire sacking

BHP broke the law and must compensate a labour hire miner they sacked after she raised safety concerns, the Federal Court has ruled in a big win for contractors.

In a long-running case fought by our union, the Federal Court found that BHP Coal took adverse action against our member Kim Star by 'demobilising' her position and excluding her from the mine after she refused to operate in a poorly-lit area at Goonyella Riverside mine in 2017.

BHP must now provide compensation.

The Fair Work Commission previously found that Kim Star had been unfairly dismissed by her employer WorkPac, who sacked her three days after BHP demobilised her position. Even after the Fair Work Commission ordered her reinstatement, BHP fought her return to the mine.

Queensland President Steve Smyth said that Kim Star's case showed the precarious position of contractors in mining and the Federal Court decision exposed hypocrisy and injustice in the industry.

Callide disaster shows urgent need to invest in maintenance

Callide Power Station near Biloela in Central Queensland spent a week in the headlines earlier this month as a succession of incidents exposed the dangerous failure to invest in maintenance at the aging site.

On Monday 31 October, Callide's C3 unit went offline due to a structural failure, with the collapse of the cooling plant likely to leave the unit out of action until next year. Issues with the unit's timber cooling tower had been identified in 2017, with warnings that further deterioration

"Kim Star was a typical worker in the Queensland coal industry, working for BHP for years as a contractor through WorkPac.

"When she refused to operate in unsafe conditions – as she has the legal right and the obligation to do – BHP said they didn't want her anymore and WorkPac promptly sacked her.

"Both the Fair Work Commission and the Federal Court have now ruled in Ms Star's favour. Today's decision underlines the reality that multinationals like BHP like using labour hire workers because they are easy to get rid of. They ultimately call the shots when it comes to employment arrangements on their mines.

"Our union has been proud to back Ms Star and we continue to be impressed by her courage and determination.

"Because she has stood up to BHP, it will now be much harder for them to treat their contractors as disposable labour. It's a fantastic win that is another step in the fight for more permanent, secure jobs in mining."



would cause collapse. Despite this, repairs were not scheduled to occur until an upgrade project set for January 2023 – too late to prevent the dangerous incident.

The day after C3's collapse, Callide's B2 unit tripped during scheduled testing, and on Friday 4 November, the B1 unit tripped.

With the C4 unit offline since an explosion in May 2021 caused catastrophic damage, this meant that the power station spent several hours completely offline.

The high level of risk posed to the health and safety of workers at the power station due to these incidents is unacceptable, and so far only luck has prevented them from causing serious injuries.

Workers at Callide Power Station should not be forced to put up with an unsafe workplace as they continue to provide power to Queensland

until the site's scheduled closure in 2028. The Queensland Government's plan to phase out its state-owned coal-fired power stations by 2035 must not be seen as an invitation to neglect them and run them into the ground.

Trust between the government, management, and workers is essential for a genuinely consultative and collaborative approach to navigating the enormous changes and challenges ahead for Biloela, and for other communities facing a similar future. Investing in power station maintenance is a critical element of building that trust.

Programmed: The biggest labour hire company with the worst pay



Workers at Programmed Services are getting organised to improve pay and conditions for contractors working across mines in the Hunter Valley.

Since replacing Chandler Macleod's contract at Mt Arthur, Programmed Services is now the largest labour hire provider in the Northern District coalfields. As well as Mt Arthur, Programmed has contracts at Hunter Valley Operations, Bengalla, Maules Creek, Mount Thorley

Warkworth, Mt Arthur South, and Mt Pleasant.

Despite having client mines like BHP and Whitehaven Coal who recorded net profits after tax of US\$30.9bn and AU\$1.95bn respectively for FY2022, Programmed workers have one of lowest base pay rates in the District in their current Enterprise Agreement.

With their current Enterprise Agreement, Programmed mineworkers earn around \$35,000 a year less than permanent mineworkers employed through mine operators.

The Enterprise Agreement for Programmed Services workers expires in February 2023, providing an opportunity to bargain for a better deal.

A survey of Programmed mineworkers found that:

- Over half of respondents said poor job and income security were their primary concerns
- On average respondents have worked as contractors through Programmed for four years
- Most respondents say receiving less pay than permanent staff doing the same job is unfair.

The Log of Claims survey launched in October also revealed some concerning sentiments, with respondents saying that they feel that they have been silenced, are constantly forced to sacrifice, and that they feel like they are second class citizens on site.

Respondents also said they were concerned about a lack of communication from the company, rushed training and a lack of support from the employer.

Programmed Services' website states that its labour hire workforce of 20,000 employees. Approximately 1,000 of these workers are labour hire coal miners working in the Northern District coalfields. This makes Programmed one of the biggest employers in the District.

Despite the size of the workforce, the labour hire business model works to keep wages and conditions down, said Northern Mining and NSW Energy District

President Robin Williams.

“Contractors in the industry live in constant hope of getting a permanent shirt. Yet our survey shows the reality - that most workers remain in labour hire roles for years and most never get the opportunity for a permanency.

“The mining companies want people to be crippled by insecurity, so they don't get organised to get a better deal.

“Our message to workers at Programmed and all labour hire workers across the industry, is that we can get a better deal but we need to stand together.

“Standing together through the union is the only way we have ever won improved conditions in the mining industry. We encourage all workers to participate in surveys, chat to our organisers when they come on site and join the union so that we are in the strongest possible position when it comes to bargaining.”



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BHP rail workers fight for annual pay rise

Train Crews in the Pilbara are taking on BHP over the principle that they should get a guaranteed annual pay increase, instead of relying on performance appraisals.

Union members have three main asks for a new Enterprise Agreement, including a guaranteed annual pay rise, consultation and communications on rosters and housing, accomodation and a consistent flight assistance policy for workers.

Representatives from the Union and BHP have now met for ten meetings, and while some progress has been made, the Union is concerned that not enough progress has been made in a key claim, which is the way workers are remunerated.

BHP has maintained their position that employees should continue to be remunerated through the use of market rate reviews and the annual performance appraisal process. The Union believes that remuneration should be provided through a guaranteed annual percentage increase to employees' base rates

and the annual performance appraisal process should only be used to establish Short-Term Incentive payments.

“Rail workers have a severe lack of trust in BHP. In 2014 BHP promised workers that they would not take away any conditions. However, BHP turned around and took away the flight assistance policy for new starters, home purchase support, Christmas and Boxing Day bonus, rental assistance and unlimited sick leave,” said WA Organiser Warren Johncock.

“With this lack of trust in the company, workers feel that we need to lock in annual percentage increases.

“BHP has recorded record profits. In this climate, we are in a great position to keep campaigning and demand more from our Agreement.”

Consultation with members is currently taking place, with the prospect of protected industrial action if BHP's offer doesn't improve.



Celebrating 100 years of solidarity

Message from the General Secretary, Grahame Kelly



I recently had the pleasure of being invited to attend the Wonthaggi Miners' Friendly Society Dispensary Centenary Celebrations in southern Victoria. It marked 100 years since the establishment of the Miners Dispensary, a chemist by another name, in the town of Wonthaggi but more than that, it marked a century of solidarity.

Our Union places a great deal of importance on commemorating events that are significant to our members, whether those events be memorials, key historical dates or anniversary celebrations.

We do this because our Union has a strong sense of where we have come from, which informs who we are today and where we are going in the future. We also do this because we honour the struggles and victories of those who came before us.

These events serve as an important reminder that at the core of our Union, the most important thing we do is have each other's backs because being in it together is how we win.

The Wonthaggi story is just one of many in our Union that represent how workers use solidarity as a weapon of strength. They used this solidarity from the beginning, when the community started out as a tent city on the

Powlett River coal fields, to the establishment of the Miners' Dispensary, and of course during the strikes in the 1930s where they were ultimately victorious. Today the community and the Dispensary are still there, 100 years later which is a testament to that community spirit still going strong.

Throughout coal communities across Australia, our Union has been active in building hospitals, rescue services, schools, halls, theatres, and clubs for workers to socialise, and the Miners' Dispensary was a clear example of this.

Our Union still engages in community building activities today, through many Union programs ranging from our annual Mineworkers' Trust scholarships to funding sporting events in our communities, fundraising for community causes and charities, and by bringing workers together every day to fight for a better future for them, their families and communities.

Across towns in Australia, community activism and industrial activism go hand in hand, and there are many instances of our Union being a strong partner with the local community.

The stories of Wonthaggi are ultimately about workers standing together and looking after one another to the end in some cases like this with the Wonthaggi State Coal Mine closing in 1968 when Victoria no longer needed coal for their railways. We are proud to have many stories like this in our Union's history and we continue this tradition every day as we honour the past and fight for a better future for mining and energy workers.



