Australia: Industrial tribunal backs the sacking of striking German Creek miners

Terry Cook
8 December 2016

Anglo American has been given the green light by the Fair Work Commission (FWC), the federal government's industrial tribunal, to sack 82 workers at its German Creek open cut coal mine in Queensland's Bowen Basin.

The November 27 FWC ruling, which was announced as a strike by 140 workers for a new enterprise agreement (EBA) at the mine entered its fifth month, sets a dangerous precedent.

Under Fair Work laws, workers taking authorised "protected" industrial action are not supposed to be sacked for striking in enterprise bargaining periods. Thirty-two of the 33 German Creek workers who have been fired were on strike.

While the Construction Forestry Energy Mining Union (CFMEU) condemned the ruling and said it would appeal, the union is directly responsible for the sacked miners being left in the hands of the industrial court. The CFMEU has isolated the striking workers and encouraged the illusion that they would be dealt with fairly in the industrial court.

The German Creek verdict is in line with an increasing employer assault on workers' jobs, wages and conditions. It follows an FWC decision last month allowing Essential Energy power company to impose 600 forced redundancies in July 2018 and axe another 1,000 in 2019. The Essential Energy ruling overrode an existing enterprise agreement.

The previous German Creek enterprise agreement expired in April 2014. Anglo American rejected CFMEU calls for an agreement that maintained current rates of pay, and improved accident pay in line with coal industry standards, with no further casualisation of the workforce.

The *Australian Financial Review* described the CFMEU's claims as "historically moderate." Nevertheless, Anglo American deliberately dragged out negotiations to effectively impose a wage freeze for more than two years and radically restructure its operations, including the destruction of full-time jobs and extended casualisation.

Rejecting a CFMEU application to block the sackings, FWC deputy president Ingrid Asbury said Anglo American had not breached the Fair Work laws.

Company restructuring and job losses during protected strike action for enterprise agreements, Asbury declared, "does not necessitate a finding that the employer has breached good faith bargaining obligations. Where such review and restructuring is genuine and based on valid business grounds, it will not be capricious or unfair conduct."

Anglo American claimed that the redundancies resulted from changes to its mining operations that it had "often considered but never taken" until the strike began in August. Last December, the giant corporation announced a major global restructure, including the sell-off of 60 percent of its mining assets and the axing of 85,000 jobs. At least four coal mines in Australia were targeted for closure.

The changes at German Creek feature the use of massive draglines to remove overburden from the coal seams. The company estimates this will permit it to cut $40 million in production costs over the next three years.

CFMEU district vice-president Stephen Smyth told the media that the company's claims were "a smokescreen to cover up what it really wanted to do and that this had been aided and abetted" by the FWC. From the outset, however, and throughout the 16 negotiating meetings held since 2014, the CFMEU has appealed to the company to work with the union to develop alternative cost-cutting measures.

© World Socialist Web Site

In line with its hopes of striking a deal, the CFMEU has kept the dispute within the framework of the draconian industrial laws, faithfully policing the provisions that prohibit solidarity industrial action by other workers.

Fair Work Australia's extensive anti-strike laws were introduced in 2009 by the Rudd Labor government with the backing of the CFMEU and all the other trade unions.

When Anglo announced its intentions to sack workers and employ more casuals through labour-hire companies, the union opposed any action by workers at other mines. To head off demands for such support, the CFMEU rushed the German Creek sackings into the FWC, hoping to secure a temporary delay and give the union more time to stitch-up a sell-out agreement with Anglo American.

The mining giant is still churning out coal at German Creek using non-striking mine employees and the labour hire company WorkPac, which has a union-endorsed enterprise agreement, while strikers sit on a CFMEU-controlled picket line in Camm Park, well away from the mine. The union has also diverted the strikers into harmless protest stunts, appeals to state and federal MPs and cynical claims that the company's attacks could be defeated through the FWC.

The FWC decision at German Creek will be used by other mining companies and employers to restructure and slash operating costs.

Mining giant BHP Billiton is currently attempting to impose a three-year wage freeze and severe cuts to conditions in EBA negotiations with the CFMEU at the company's Peak Downs, Saraji and Goonyella coal mines. Peabody Energy is planning to close its Moorvale open-cut coking coal mine in Queensland as part of a major restructure.

The mining union has already rubberstamped the destruction of thousands of jobs. Since 2012, over 4,600 coal jobs have been axed in Queensland's Mackay region alone, while in New South Wales more than 5,500 coal jobs have been axed and 22 pits closed in the past two years.

To defeat Anglo's job cuts, and the union's isolation of the German Creek strikers, the dispute must be taken out of the hands of the CFMEU. Workers need to establish democratically-elected rank-and-file committees and appeal to fellow workers across the mining industry, in Australia and internationally, to defend all jobs and hard-won conditions in an industrial and political counter-offensive against the mining giants.

Such a fight must be based on the fight for a workers' government and a socialist perspective to nationalise the mining companies under workers' control and completely reorganise society to provide for basic social needs, not corporate profits.

To contact the WSWS and the Socialist Equality Party visit:

wsws.org/contact

© World Socialist Web Site