

# Australia: Fair Work Commission shuts down industrial action by rail workers

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On Wednesday, the Fair Work Commission (FWC) ordered that all industrial action in the New South Wales (NSW) rail workers' dispute with the state Labor government be suspended until July 1.

The ruling denies more than 12,000 Sydney and NSW Trains workers any capacity to actively oppose Labor's real wage and condition slashing enterprise agreement offer, stripping them of the already tightly constrained workplace democratic rights afforded by Australia's repressive industrial relations laws.

The more-than-four-month suspension clears the way for a sell-out deal to be cooked up, under FWC supervision, by management, the government and the Rail, Tram and Bus Union (RTBU) bureaucracy, which has already been boasting for weeks of being "excruciatingly close" to agreement.

The government is seeking to impose a 14 percent nominal pay rise over four years, of which 1 percent would come from "cost savings," far short of what is needed to keep up with the soaring cost of living or recoup losses incurred in previous union-government deals. This "revised" proposal is effectively unchanged from the original offer, made throughout the NSW public sector, of a 9.5 percent increase over three years. The government is also trying to remove safety and job security clauses from the previous agreement.

While the union leadership has given no detail to workers about the content of its backroom negotiations, it said late last week that the only remaining sticking point was the question of an additional 1 percent pay rise in the final year of the proposed agreement. This underscores that rail workers' initial demand for a 32 percent pay rise over four years has long since been abandoned and was never fought for by the unions.

The FWC did not, as Sydney Trains demanded, extend the suspension to September, when "intractable bargaining" provisions can be activated to shut down the dispute entirely and impose an agreement through arbitration. But there is every reason to assume that a further suspension would quickly result if any further substantive industrial action were taken after the order lapses. This will be used by the union bureaucracy to tell workers there is nothing to be gained by holding out until July and that the only way forward is through backroom negotiations.

The supposedly "independent" industrial tribunal's

suspension order was heavily influenced, if not directly ordered, by the federal Labor government.

On Monday, Workplace Relations Minister Murray Watt declared, "all of us will be keenly watching the outcome of the Fair Work Commission decision on Wednesday." The subtext was clear: While Watt preferred not to invoke his ministerial power to directly shut down the strike, he was ready to do so if the FWC did not deliver the "correct" result.

This influence can be clearly seen in the shift in tone between the suspension order, and a separate FWC decision on Sunday.

The earlier hearing came after the NSW Labor government sought a ruling that rail workers were undertaking "unprotected" industrial action by calling in sick after management told them they would not be paid if they participated in a "go-slow" action called by the RTBU.

On Sunday, FWC Deputy President Thomas Roberts was "unable to conclude on the evidence that industrial action is now happening amongst the employees. Nor do I think that such action is threatened, impending or probable.... The union eschewed that possibility."

The RTBU bureaucracy called on workers to report for work as usual on Monday.

Wednesday's ruling, however, lamented that "Instead of the parties maturely seeking to work through" a breakdown in wage negotiations last Thursday, "there was an immediate resort to disruptive industrial action."

"At least some RTBU members encouraged or coordinated" a "pattern of non-attendance and disruption," which had "continued in the days following, albeit to a diminishing degree. There is no dispute that protected industrial action in a number of forms is currently being engaged in."

The ruling further contended that the Labor government was forced to cancel negotiations on Monday, to "concentrate on managing the consequences of the protected industrial action, and the RTBU has had to deal with the anger amongst its membership" over the threat that they would be locked out and/or not paid.

Moreover, the FWC found it was "likely that the protected industrial action will continue for a considerable period of time, and perhaps escalate, given the NSW Government's publicly-stated immovable opposition to the payment of the sign-on

bonus.”

In other words, the FWC substantially based its evisceration of rail workers’ rights on the sheer intransigence and aggressiveness of the Labor government they are up against.

This underscores the fundamentally anti-democratic and pro-business character of the Fair Work Act, which, in all sections dealing with the suspension or termination of industrial action, makes no distinction between action taken by workers and that initiated by management.

This enables employers to engineer chaos by threatening to lock out or refuse to pay workers over even the most limited work bans, creating the conditions for the FWC or the workplace relations minister to shut down all forms of industrial action. The result is that workers have no legal right to fight for their demands, while management enjoys a return to business as usual.

The real reason for the agitation and intervention of the federal Labor government is spelled out in paragraph 11 of Wednesday’s ruling. It notes there is “some evidence that... members are taking matters into their own hands and are encouraging or organising industrial action beyond that authorised by the RTBU’s leadership.” Therefore, the “cooling off period” is partly directed at allowing “the RTBU leadership to obtain greater control over events.”

This answers RTBU NSW secretary Toby Warnes’ plea for help earlier in the week, “It’s very hard to control an angry workforce,” warning that the union was in danger of being unable to maintain its decades-long suppression of the workforce.

In a letter to members yesterday, the RTBU leadership declared, “despite the initial disappointment of the decision, it actually puts us in a good position to finally get a deal done.”

While the RTBU letter is a stark demonstration of the chasm between the interests of the bureaucracy and the workers it claims to represent, it does not come out of the blue.

Throughout the dispute, the union leadership has systematically sought to undermine the struggle of workers, allowing the Labor government to avoid most substantive industrial actions by agreeing to offer free fares or temporary 24-hour service—which no rail worker asked for—and repeatedly calling off actions whenever the government complained.

These experiences, and the response to the FWC ruling, underscore that rail workers cannot advance their struggle behind the leadership of the RTBU, or any other union. Despite being compelled by the determination of their Sydney Trains members, to hold a strike earlier this month, Electrical Trades Union (ETU) bureaucrats advanced a similarly bankrupt perspective of plaintive appeals to the Labor government to “come to the table.”

Rail workers need to do what Labor, the unions and the FWC fear most: Take matters into their own hands. Rank-and-file committees, led by workers, not highly paid union officials, must be built in every rail depot and workplace. This is the

means through which rail workers can democratically discuss a set of demands based on their actual needs and a plan of action through which to fight for them.

The FWC suspension order and the Labor government’s involvement are a reminder that what is required is not just an industrial struggle but a political one. A fight must be taken up against the draconian Fair Work Act, introduced and strengthened by successive Labor governments, aided and abetted by the union apparatus, and the industrial courts that enforce it.

Critical to this struggle is the recognition that rail workers are far from alone in facing up against the total hostility of Labor governments, at state and federal level, to the interests of the working class.

They stand alongside the 80,000 building workers whose workplace democratic rights have been shattered through the federal Labor government’s imposition of quasi-dictatorial administration last August.

In NSW, the state’s 50,000 public sector nurses and midwives currently face a 9-month ban on industrial action, fully agreed to by the NSW Nurses and Midwives’ Association, rendering them unable to actively fight back against the government’s real-wage slashing offer.

More broadly, the suspension of industrial action by rail workers is the latest direct threat to the rights of every single worker. The entire working class must be mobilised to ensure that this does not become a precedent to be repeated in one workplace after another.

This is impossible under the leadership of the trade unions, which are an integral part of the Labor Party and its governments, which are leading the attack on workers.

Building a network of rank-and-file committees, on the railways, on building sites, in hospitals and throughout the working class, is the first step towards the necessary unified political struggle, not just against Labor and the industrial courts, but the capitalist system and its subordination of every aspect of workers’ lives to the profits of the financial and corporate elite.



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