



DECISION

Fair Work

Act 2009
s.424—Industrial action

Wilmar Sugar Pty Ltd

v

**Australian Workers' Union;
Automotive, Food, Metals, Engineering, Printing and Kindred Industries
Union” known as the Australian Manufacturing Workers’ Union; and
Communications, Electrical, Electronic, Energy, Information, Postal,
Plumbing and Allied Services Union of Australia
(B2024/821)**

DEPUTY PRESIDENT DOBSON

BRISBANE, 30 JUNE 2024

*Application to suspend or terminate protected industrial action (endangering life etc) - s.424
threatened, impending or probable – significant damage to an important part of the
Australian economy - application granted – orders issued – written reasons to follow*

[1] On 25 June 2024, Wilmar Sugar Pty Ltd (**the Applicant**) applied to the Fair Work Commission (**the Commission**) requesting orders be made pursuant to section 424 of the Fair Work Act 2009 (Cth) (the Act) to terminate protected industrial action. The Applicant has been notified that protected industrial action is planned to be taken by members of the Australian Workers’ Union (**AWU**), the “Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union” known as the Australian Manufacturing Workers’ Union (**AMWU**) and Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (**CEPU**) (collectively, the Respondents) employed within the Applicant’s operations.

Background

[2] The Applicant submitted that the industrial action “is threatened, impending or improbable”¹ and has, is or would threaten² “to cause significant damage to the Australian economy or an important part of it.”³

[3] The Respondents submitted that the prerequisites of s.424 are not made out and the Application should be dismissed.

¹ Fair Work Act 2009 (Cth) s.424(1)(b).

² Ibid s.424(1).

³ Ibid s.424(1)(d).

[4] The protected industrial action in question is scheduled to commence on 2 July 2024.

[5] A Hearing was conducted across three days on 27 June, 28 June, and 30 June 2024. At the conclusion of the third day of the Hearing, I reserved my decision and indicated to the parties that they should receive an outcome this evening.

[6] Pursuant to s.424(3) of the act, the Commission, must, as far as practicable, determine the application within 5 days after it is made.

[7] I have determined, on the basis of the evidence before the Commission, that I am satisfied that the protected industrial action is threatened, impending or probable.

[8] I have further determined, on the basis of the evidence before the Commission, that I am satisfied that it has, is or would threaten to cause significant damage to an important part of the Australian economy.

Conclusion

[9] Given my determinations at paragraphs [7] and [8], I must make an order pursuant to s.424(1).

[10] An order giving effect to this decision will be issued in conjunction with this decision. I will publish my full reasons for this decision in due course.



DEPUTY PRESIDENT

Appearances:

Mr J Murdoch KC and Mr C Martin for the Applicant. Instructed by Minter Ellison Lawyers
Mr C Massey for the CEPU, instructed by Hall Payne Lawyers
Mr L Saunders for the AMWU, instructed by Maurice Blackburn Lawyers
Mr T Spence for the AWU

Hearing details:

27, 28 and 30 June 2024
Brisbane

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