

Form F10 – Application for the FWC to deal with a dispute in accordance with a dispute settlement procedure

Fair Work Act 2009, s. 739; Fair Work (Transitional Provisions and Consequential Amendments Act 2009), Schedule 19; Fair Work Commission Rules 2024, rules 119 and 123 and Schedule 1

This is an application to the Fair Work Commission for it to deal with a dispute in accordance with a dispute settlement procedure.

The Applicant



Please enter your details here.

Title	<input checked="" type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Other please specify:		
First name(s)	Susha		
Surname	Semenikow		
Postal address	C/O Level 4, 132-136 Albert Road		
Suburb	South Melbourne		
State or territory	VIC	Postcode	3205
Phone number	0402 677 738		
Email address	<u>sushasem@hotmail.com</u>		

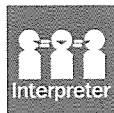
If the Applicant is a company or organisation please also provide the following details

Legal name of business

Trading name of business

ABN/ACN

Contact person

Form F10 – Application for the Commission to deal with a dispute
in accordance with a dispute settlement procedure**Do you need an interpreter?**

If you have trouble accessing this information, please contact us. We can arrange to provide it in another format. You can find information about [help for non-English speakers](#) on our website.

☐ Yes – Specify language

☒ No

Do you require any special assistance at the hearing or conference (eg a hearing loop)?

☐ Yes – Please specify the assistance required

☒ No

Do you have a representative?

A representative is a person or organisation representing you. This might be a lawyer or paid agent, a union or employer association or a not-for-profit association or body that provides support, advice or advocacy about employment or workplace relations matters. You do not need to have a representative.

☒ Yes – Provide representative's details below

☐ No

Your representative

These are the details of the person or organisation representing you (if any).

Name of person	Simon Lutton		
Firm, organisation, company	Australian Federation of Air Pilots (AFAP)		
Postal address	Level 4, 132-136 Albert Road		
Suburb	South Melbourne		
State or territory	VIC	Postcode	3205
Phone number	(03) 9928 5737 or 0419 482 582		
Email address	simon@afap.org.au		

Form F10 – Application for the Commission to deal with a dispute
in accordance with a dispute settlement procedure**Is your representative a lawyer or paid agent?**

- ☐ Yes – please select: ☐ Lawyer
- ☐ Paid agent
- ☒ No

The Respondent

These are the details of the person or business who will be responding to your application to the Commission.

Title	<input checked="" type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Other please specify:		
First name(s)	Jim		
Surname	Morton		
Postal address	10 Bourke Road		
Suburb	Mascot		
State or territory	NSW	Postcode	2020
Phone number	0414 004 844		
Email address	jimmorton@qantas.com.au		

If the respondent is a company or organisation please also provide the following details

Legal name of business	Express Freighters Australia (Operations) Pty Ltd
Trading name of business	Express Freighters Australia
ABN/ACN	ACN 119 093 999
Contact person	Jim Morton or Richard Hardonin

Form F10 – Application for the Commission to deal with a dispute
in accordance with a dispute settlement procedure

Note: Responding to this application

1. If you would like to provide a response you should lodge your response with the Commission as soon as practicable. You can lodge your response by post, email, or in person to the Commission's office in your state or territory. There is no prescribed form for your response, you can use the F1 – Application (no specific form provided).
2. **You must serve a copy** of your response and any supporting documentation on the Applicant as soon as practicable after the document is lodged with the Commission.

1. Coverage

1.1 What industry is the employer in?

Airlines/Aviation

1.2 What type of industrial instrument (eg an award or agreement) or other written agreement covers the employment relationship and contains the dispute resolution procedure relevant to this application?



Select one of the options below.

If you are not sure, the Fair Work Ombudsman can help you find out which industrial instrument covers you or your business.

If you know what industrial instrument covers you but you don't know all of the information to answer questions 1.2, 1.3 and 1.4 you can search for your instrument on the Commission's website.

☐ A modern award

What is the name of the modern award:

☒ An enterprise agreement (made under the *Fair Work Act 2009* after 1 July 2009)

What is the name of the enterprise agreement:

Express Freighters Australia Operations Pty Ltd Enterprise Agreement 2021

What is the ID code of the enterprise agreement (ie the eight digit code starting with AE):

AE517229

Form F10 – Application for the Commission to deal with a dispute
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☐ Other instrument or written agreement

What is the name of the instrument or other written agreement containing the dispute resolution procedure:

What is the ID code of the instrument or other written agreement (if applicable):

1.3 What clause of the industrial instrument or other written agreement contains the dispute settlement procedure?



List the dispute resolution clause number from the relevant industrial instrument below. Attach a copy of the clause to this application.

Clause 19

1.4 What clause of the industrial instrument or other written agreement does the dispute relate to?



List the clause(s) within the relevant industrial instrument or other written agreement that the dispute relates to. If also relevant, **list** the National Employment Standard that the dispute relates to. Attach a copy of the clause to this application

Clause 4 – Remuneration and Benefits

Form F10 – Application for the Commission to deal with a dispute
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Using numbered paragraphs, set out a description of what the dispute is about, including by reference to the clauses set out above. Attach additional pages if necessary.

1. The dispute is over whether by virtue of s206 of the *Fair Work Act 2009* (the Act), the salaries detailed in clause 4 of the *Express Freighters Australia Operations Pty Ltd Enterprise Agreement 2021* (the Agreement) should be increased to the minimum salary payable under the *Air Pilots Award 2020* (the Award).

2.2 Does this application relate to a refusal by an employer of a request by an employee for flexible working arrangements?

☐ Yes

☒ No

2.3 Does this application relate to a refusal by an employer of a request by an employee for an extension of unpaid parental leave?

☐ Yes

☒ No

2.4 Does this application relate to a dispute about conversion from casual employment to full-time or part-time (permanent) employment?

☐ Yes

☒ No

Form F10 – Application for the Commission to deal with a dispute
in accordance with a dispute settlement procedure**2.5 What steps have already been taken to resolve the dispute under the dispute resolution procedure?**

Using numbered paragraphs, set out, in chronological order, the steps already taken (if any). Attach additional pages if necessary.

1. On 24 June 2024 the AFAP wrote to the Respondent advising that, as of 1 July 2024, the majority of its pilots will be receiving a salary below the minimum Award rate. (copy attached)
2. In accordance with step 1 of the dispute resolution procedure, on 14 October 2024, the AFAP wrote on behalf of member Susha Semenikow requesting that his (and other similarly affected EFA pilots) have their salary topped up to the minimum salary level under the Award and backdated to 1 July 2024. (copy attached)
3. On Tuesday 22 October the parties met to discuss.
4. In accordance with step 2 of the dispute resolution procedure, on 25 October 2024, the AFAP wrote on behalf of member Susha Semenikow requesting that his (and other similarly affected EFA pilots) have their salary topped up to the minimum salary level under the Award and backdated to 1 July 2024. (copy attached)
5. On 25 October 2025 the Respondent sought further clarification on the AFAP's calculations. (copy attached)
6. On 1 November 2024, the AFAP provided detailed clarification on the AFAP's calculations. (copy attached)
7. On Tuesday 5 November the parties met to discuss.
8. On 8 November the Respondent provided a response. (copy attached)

3. Relief sought**3.1 What relief are you seeking by making this application to the Commission?**

If the dispute resolution clause in the instrument gives the Commission the power to arbitrate the dispute, please also specify the determination sought.

An order that the Respondent top up affected pilot salaries as detailed in Clause 4 of the Enterprise Agreement to the minimum salary level under the Award, backdated to 1 July 2024.

Form F10 – Application for the Commission to deal with a dispute
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For 'Authority to sign':

- If you are the Applicant—insert 'Applicant'
- If you are an employee of a company or organisation that is the Applicant—insert your position title
- If you are the Applicant's representative and have provided your details in this form—insert 'Representative'.

Authority to sign Representative

Insert your signature, name and the date. If you are completing this form electronically and do not have an electronic signature, type your name in the signature field.

Signature**Name** Simon Lutton, Executive Director, AFAP**Date** 12 November 2024**PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS**

19 Dispute resolution procedure

- 19.1 This clause 19 applies where any dispute arises about any matters arising under this Agreement or in relation to the National Employment Standards provided that this procedure will not apply to matters relating to an Employee's flying proficiency or to matters of operational safety.
- 19.2 It is important that Employees and the Company commit to resolving any disputes that may arise, however if such a dispute arises the following procedure must be followed:
- (a) The matter will first be discussed by the affected Employee(s) and the Deputy Chief Pilot (or delegate).
 - (b) If not resolved, the matter will be discussed by the affected Employee(s) and the Head of Flying Operations and Chief Pilot (or delegate).
 - (c) Should an issue remain unresolved, it may be referred by either party to the Commission to resolve through private conciliation and/or arbitration.
- 19.3 Subject to the provisions of this clause, the parties to the dispute will accept the outcome of any arbitration.
- 19.4 If a dispute is referred to the Commission for resolution, the Commission can take any or all of the following actions as it considers appropriate to resolve the dispute:
- (a) convene conciliation conferences of the parties or their representatives at which the Commission is present;
 - (b) require the parties or their representatives to confer among themselves at conferences at which the Commission is not present;
 - (c) request, but not compel, a person to attend proceedings;
 - (d) request, but not compel, a person to produce documents;
 - (e) where either party requests, conciliate or make recommendations about particular aspects of a matter about which they are unable to reach agreement; and
 - (f) subject to clause 19.1 where the matter(s) in dispute cannot be resolved (including by conciliation) and one (1) party or both request, arbitrate or otherwise determine the matter(s) in dispute.
- 19.5 The Commission must follow due process and allow each party a fair and adequate opportunity to present their case.
- 19.6 Any determination by the Commission under clause 19.4(f) must be in writing if either party so requests, and must give reasons for the determination.
- 19.7 Any determination made by the Commission under clause 19.4(f) must not require a party to act in contravention of an applicable industrial instrument or law. Where relevant, and circumstances warrant, the Commission will consider previous decisions of the Commission.
- 19.8 The Commission must not issue interim orders, 'status quo' orders or interim determinations.

- 19.9 An Employee may request to have a representative of his or her choice, which may include a representative from the Association (or a representative of a Registered Industrial Organisation of which they are a member), represent them at any stage of this dispute settlement procedure. Any such representative nominated by the Employee pursuant to this dispute resolution procedure will be allowed access to the Employee on Company premises, or such other place as may be agreed to between the Company and the Employee, so that relevant information and instructions can be obtained.
- 19.10 While the parties attempt to resolve a dispute, Employees must continue to work as normal in accordance with this Agreement and the Employee's contract of employment unless an Employee has a reasonable concern about imminent risk to safety or health.
- 19.11 No party will be prejudiced as to the final settlement by the continuance of work in accordance with clause 19.10.
- 19.12 Where a bona fide safety issue is involved, the Company and the appropriate safety authority must be notified concurrently or at least a bona fide attempt made to so notify the authority.

4 Remuneration and Benefits

- 4.1 For Narrow Body Aircraft, total annual remuneration for all duties completed will be as follows, plus superannuation:

Classification	Period of service	Remuneration per annum
Captain appointed after 11 February 2015 or with nil to 3.5 years' service in rank with the Company on 11 February 2015	From 1 January 2021	\$175,050
	Thereafter, on 1 January 2022	\$178,551
	Thereafter, on 1 January 2023	\$182,122
	Thereafter, on 1 January 2024	\$185,764
Captain with 3.5 years' service in rank with the Company on 11 February 2015	From 1 January 2021	\$175,050
	Thereafter on 1 January 2022	\$178,551
	Thereafter on 1 January 2023	\$182,122
	Thereafter on 1 January 2024	\$185,764
Captain with 4.5 years' service in rank with the Company on 11 February 2015	From 1 January 2021	\$175,050
	Thereafter on 1 January 2022	\$178,551
	Thereafter on 1 January 2023	\$182,122
	Thereafter on 1 January 2024	\$185,764
Captain with 5.5 years' service in rank with the Company on 11 February 2015	From 1 January 2021	\$175,626
	Thereafter on 1 January 2022	\$179,127
	Thereafter on 1 January 2023	\$182,628
	Thereafter on 1 January 2024	\$186,129

Classification	Period of service	Remuneration per annum
February 2015	From 1 January 2021	\$175,050
	Thereafter on 1 January 2022	\$179,139
	Thereafter on 1 January 2023	\$182,722
	Thereafter on 1 January 2024	\$186,376
Captain with 6.5 years' or greater service in rank with the Company on 11 February 2015.	From 1 January 2021	\$180,895
	Thereafter on 1 January 2022	\$184,513
	Thereafter on 1 January 2023	\$188,203
	Thereafter on 1 January 2024	\$191,967
Classification	Period of service	Remuneration per annum
First Officer appointed after 11 February 2015 or with nil to 3.5 years' service in rank with the Company on 11 February 2015	From 1 January 2021	\$113,346
	Thereafter, on 1 January 2022	\$115,613
	Thereafter, on 1 January 2023	\$117,925
	Thereafter, on 1 January 2024	\$120,284

First Officer with 3.5 years' service in rank with the Company on 11 February 2015	From 1 January 2021	\$113,346
	Thereafter, on 1 January 2022	\$115,613
	Thereafter, on 1 January 2023	\$117,925
	Thereafter, on 1 January 2024	\$120,284
First Officer with 4.5 years' service in rank with the Company on 11 February 2015	From 1 January 2021	\$113,346
	Thereafter, on 1 January 2022	\$115,613
	Thereafter, on 1 January 2023	\$117,925
	Thereafter, on 1 January 2024	\$120,284
First Officer with 5.5 years' or greater service in rank with the Company on 11 February 2015	From 1 January 2021	\$113,346
	Thereafter, on 1 January 2022	\$115,613
	Thereafter, on 1 January 2023	\$117,925
	Thereafter, on 1 January 2024	\$120,284

- 4.2 For Wide Body Aircraft, total annual remuneration for all duties completed will be as follows, plus superannuation:

Classification	Period of service in position	Remuneration per annum
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Classification	Period of service in position	Remuneration per annum
Captain – after being successfully checked to line for the operation of the wide bodied aircraft	From 1 January 2021	\$197,197
	Thereafter, on 1 January 2022	\$201,141
	Thereafter, on 1 January 2023	\$205,164
	Thereafter, on 1 January 2024	\$209,267
Captain with 1 years' service in rank with the Company on 11 February 2015	From 1 January 2021	\$197,197
	Thereafter, on 1 January 2022	\$201,141
	Thereafter, on 1 January 2023	\$205,164
	Thereafter, on 1 January 2024	\$209,267
Captain with 2 years' service in rank with the Company on 11 February 2015	From 1 January 2021	\$201,019
	Thereafter, on 1 January 2022	\$205,039
	Thereafter, on 1 January 2023	\$209,140
	Thereafter, on 1 January 2024	\$213,323
Captain with 3 years' or greater service in rank with the Company on 11 February 2015	From 1 January 2021	\$207,049
	Thereafter, on 1 January 2022	\$211,190
	Thereafter, on 1 January 2023	\$215,414
	Thereafter, on 1 January 2024	\$219,722
Classification	Period of service in position	Remuneration per annum
First Officer – after being successfully checked to line for the operation of the wide bodied aircraft and up to 2 years' service in rank with the Company on 11 February 2015	From 1 January 2021	\$132,898
	Thereafter, on 1 January 2022	\$135,556
	Thereafter, on 1 January 2023	\$138,267
	Thereafter, on 1 January 2024	\$141,032
First Officer with 2 years' or greater service in rank with the Company on 11 February 2015	From 1 January 2021	\$132,898
	Thereafter, on 1 January 2022	\$135,556
	Thereafter, on 1 January 2023	\$138,267
	Thereafter, on 1 January 2024	\$141,032



24 June 2024

Richard Hardonin
Head of Flying Operations
Chief Pilot

Via email: richard.hardonin@gantas.com.au

Dear Richard,

Express Freighters Australia (EFA) Enterprise Agreement

I am writing to request that bargaining for a new agreement commence at Express Freighters Australia (EFA) as soon as possible. Our pilot reps at EFA have also met with the AIPA pilot reps at EFA and we request that the bargaining be conducted together with both the AFAP and AIPA representatives present.

As you would be aware, the *Express Freighters Australia Operations Pty Ltd Agreement 2021* expires at the end of the year.

Under the current agreement the majority of EFA pilots receive the following salaries:

	Narrow-Body	Wide-Body
Captain	\$193,157	\$217,595
First Officer	\$127,071	\$146,645

As we feared when the current agreement was unilaterally put out for vote by the company, increases to the *Air Pilots Award 2020* (the Award) have been significantly higher than the increases provided under the Qantas wages policy. With the latest Award increase of 3.75% set to take effect on 1 July 2024 we calculate the minimum rates under the Award to soon be:

	Narrow-Body	Wide-Body
Captain	\$195,653	\$220,629
First Officer	\$127,213	\$149,795

This means that once again, the majority of EFA pilots will be receiving a salary below the minimum Award rate. From the pilots' perspective, this is a highly unsatisfactory situation which places great urgency on the commencement of bargaining. Accordingly, please advise when EFA is willing to commence bargaining for a new agreement and nominate a meeting date.

Please do not hesitate to contact me on ph. 0419 482 582 or email simon@afap.org.au to discuss the above and/or confirm a date for our next meeting.

Yours sincerely,

Simon Lutton
Executive Director
Australian Federation of Air Pilots



14 October 2024

David McCutcheon
Deputy Chief Pilot

Via email: david.mccutcheon@gantas.com.au

Dear David,

Step 1 Dispute Resolution Procedure – Susha Semenikow salary

In accordance with s206 of the Fair Work Act 2009 and the first step of the *Express Freighters Australia Operations Pty Ltd Agreement 2021* (EFA EA 2021) dispute resolution procedure, I am writing to request that Susha Semenikow (and other similarly affected EFA pilots) have their salary topped up to the minimum salary level under *Air Pilots Award 2020* (the Award) and backdated to 1 July 2024.

Susha Semenikow and the majority of EFA pilots currently receive the following salaries at EFA:

	Narrow-Body	Wide-Body
Captain	\$193,157	\$217,595
First Officer	\$127,071	\$146,645

As previously advised to EFA, the relevant Award salaries effective from 1 July 2024 are as follows:

	Narrow-Body	Wide-Body
Captain	\$195,653	\$220,629
First Officer	\$127,213	\$149,795

Please confirm the company's position to topping up the EFA salaries to the Award salary within 7 days.

I can be contacted on ph. 0419 482 582 or email simon@afap.org.au to discuss the above.

Yours sincerely,

Simon Lutton
Executive Director
Australian Federation of Air Pilots



25 October 2024

Richard Hardonin
Head of Flying Operations and Chief Pilot
EFA

via email: richard.hardonin@qantas.com.au

Dear Richard,

Step 2 Dispute Resolution Procedure – Sussha Semenikow salary

In accordance with s206 of the *Fair Work Act 2009* and the second step of the *Express Freighters Australia Operations Pty Ltd Agreement 2021* (EFA EA 2021) dispute resolution procedure, I am writing to request that Sussha Semenikow (and other similarly affected EFA pilots) have their salary topped up to the minimum salary level under *Air Pilots Award 2020* (the Award) and backdated to 1 July 2024.

Please note that on 14 October 2024 we wrote the Deputy Chief Pilot in accordance with the first step of the dispute resolution procedure and subsequently met on Tuesday 22 October 2024. At that meeting EFA requested time to review its position and stated it would advise of its position by the end of this week. Based on this undertaking I was surprised to receive a copy of the Company's position in an update sent to all EFA pilots today.

While it certainly confirms that EFA's position has not changed, it is disappointing that EFA did not first respond to Sussha and the AFAP.

As previously stated, our position remains that Sussha Semenikow and the majority of EFA pilots currently receive the following salaries at EFA:

	Narrow-Body	Wide-Body
Captain	\$193,157	\$217,595
First Officer	\$127,071	\$146,645

As also previously advised to EFA, the relevant Award salaries effective from 1 July 2024 are as follows:

	Narrow-Body	Wide-Body
Captain	\$195,653	\$220,629
First Officer	\$127,213	\$149,795

Please confirm the company's position to topping up the EFA salaries to the Award salary within 7 days. If we do not hear from EFA we will assume that the matter remains unresolved and make application to the Fair Work Commission.

I can be contacted me on ph. 0419 482 582 or email simon@afap.org.au to discuss the above.

Yours sincerely,

Simon Lutton
Executive Director
Australian Federation of Air Pilots

25 October 2024

BY EMAIL

Simon Lutton
Executive Director
Australian Federation of Air Pilots
simon@afap.org.au

Dear Simon

Response to dispute – Sussha Semenikow – step 1

I refer to your letter dated 14 October 2024, your email to me dated 18 October 2024, and to the meeting on 22 October 2024. This letter sets out the Company's response to that correspondence as part of step 1 in the dispute resolution procedure in the enterprise agreement.

The Company seeks to clarify precisely what the AFAP's position is. In my email of 16 October 2024 I referred to the fact that the AFAP appeared to be including the additional payments in Schedule A, subclause A.1 of the Air Pilots Award 2020 in its calculation of the Award "salaries".

Your response appears to suggest that only the "additions to salary" are part of the base rate of pay for the purposes of section 206 of the *Fair Work Act 2009* (Cth). However, it is clear from our discussion on 22 October 2024, and your letter of 14 October 2024, that AFAP include more than the "additions to salary" in clause A.1.3 for the purposes of section 206. We request that you clarify what, precisely, the AFAP is including in its salary calculation.

In any event, the Company's position is that, for the purposes of sections 16 and 206 of the Act, the base rate of pay in the Award is the minimum salary prescribed in clause A.1.1. The reasons for that, in summary, are:

1. Section 16 of the Act defines the "base rate pay" and relevantly excludes
 - incentive based payments and bonuses
 - loadings;
 - monetary allowances;
 - overtime or penalty rates; and
 - any other separately identifiable amounts.
2. The other payments in Schedule A to which you refer are "other separately identifiable amounts" and/or "monetary allowances" and are therefore excluded from the base rate of pay. That is because:
 - Clause 18 of the Award is titled minimum rates;
 - Clause A.1.1 of the Award is titled '*Aircraft classifications and minimum salaries*'. The minimum salaries are expressed to be paid on a per annum basis. Similar language is used in clause A.1.2.
 - Clause A.1.3 of the Award is titled 'Additions to minimum salary'. The introductory words read: 'In addition to the minimum salary the following salary components will be paid as applicable ...'
 - A number of the 'additions' are then described as allowances. Others are described as an amount per annum.



I trust that this clarifies the Company's position. If you intend to proceed with the dispute, I request that you provide a response to the above. The next step will then be for the matter to be discussed with the Head of Flying Operations and Chief Pilot in accordance with clause 19.2(b).

Yours faithfully

A handwritten signature in black ink, appearing to read "DMC", followed by a horizontal line.

David McCutcheon
Deputy Chief Pilot



1 November 2024

David McCutcheon
Deputy Chief Pilot
Express Freight Australia

Via email: david.mccutcheon@gantas.com.au

Dear David,

S206 Dispute Clarification

I am writing in reply to your letter of 25 October 2024 where you write:

“We request that you clarify what, precisely, the AFAP is including in its salary calculation.”

As you know, the minimum Award salary rate effective 1 July 2024 we have provided are:

	Narrow-Body	Wide-Body
Captain	\$195,653	\$220,629
First Officer	\$127,213	\$149,795

Below is the precise Award calculation for the salary figures above:

Captain	Narrow-Body	Wide Body
<i>Base</i>	\$168,634	\$193,611
<i>Jet Addition</i>	\$13,219.97	\$13,219.97
<i>CIR Addition</i>	\$7,560.17	\$7,560.17
<i>ATPL Addition</i>	\$6,238.17	\$6,238.17
Total	\$195,652	\$220,629

First Officer	Narrow-Body	Wide Body
<i>Base</i>	\$111,060	\$127,404
<i>Jet Addition</i>	\$8,592.98	\$8,592.98
<i>CIR Addition</i>	\$7,560.17	\$7,560.17
<i>ATPL Addition</i>	N/A	\$6,238.17
Total	\$127,213	\$149,795

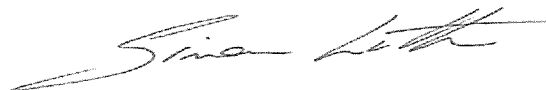
This is the minimum rate under the Award for that specific classification of pilot. We believe that this is the figure that should be used as the Award base rate of pay for the purposes of s206 of the *Fair Work Act*.

We have noted your position that for the purposes of s206 only the initial figure above is relevant however we disagree. The initial amount is not a figure that could lawfully be paid to any pilot under the Award performing the work that EFA pilots perform.

I note that we have now commenced the second step of the dispute resolution procedure and we are happy to further explain our position during our discussions with the Chief Pilot next week.

I can be contacted me on ph. 0419 482 582 or email simon@afap.org.au to discuss the above.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Simon Lutton', with a long horizontal flourish extending to the right.

Simon Lutton
Executive Director
Australian Federation of Air Pilots

8 November 2024

BY EMAIL

Simon Lutton
Executive Director
Australian Federation of Air Pilots
simon@afap.org.au

Dear Simon

Response to dispute – Susha Semenikow

I refer to your letter of 1 November 2024 and to our meeting on 5 November 2024.

As is clear from your letter of 1 November 2024, the AFAP's position is that not only certain "additions to salary", but also the separate instrument rating allowance (which despite being described in your letter as an "addition", is plainly not an "addition to salary" for the purposes of the Award) form part of the "base rate of pay" for the purposes of sections 16 and 206. How those additions and allowances are said to form part of the "base rate of pay" given the terms of section 16 remains unexplained.

The Company's position, as explained in detail in the letter of 25 October 2024, is that those additions to salary and allowances are not part of the base rate of pay for the purposes of section 206 of the Fair Work Act 2009 (Cth), and that the base rate of pay in the enterprise agreement exceeds that in the Air Pilots Award 2020.

For the reasons the Company has previously provided, the AFAP's position is unsustainable. Further progressing the dispute in those circumstances will not serve to benefit anyone. The Company remains committed to bargaining in good faith for a replacement agreement from early in the new year.

Finally, whilst the Company has engaged with this process in an effort to try and resolve the concerns raised, it does not concede that there is a dispute about a matter arising under the agreement. The AFAP's dispute rather concerns compliance with the Act. The Company reserves its rights in relation to this issue.

Yours faithfully



Richard Hardonin
Head of Flying Operations and Chief Pilot