

NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 5/08/2022 3:34:27 PM AEST and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

Filing and Hearing Details

Document Lodged:	Originating Application - Form 15 - Rule 8.01(1)
File Number:	VID1661/2018
File Title:	LAWRENCE RIDGE v HAYS SPECIALIST RECRUITMENT (AUSTRALIA) PTY LIMITED
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	To Be Advised
Time and date for hearing:	To Be Advised
Place:	To Be Advised



Dated: 5/08/2022 3:59:59 PM AEST

A handwritten signature in blue ink that reads 'Sia Lagos'.

Registrar

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



Amended Originating application starting a representative proceeding under Part IVA of the Federal Court of Australia Act 1976

VID of 2018

Federal Court of Australia
District Registry: Victoria
Division: Fair Work

Lawrence Ridge

Applicant

Hays Specialist Recruitment (Australia) Pty Limited (ACN 001 407 281)

Respondent

To the Respondent

The Applicant applies for the relief set out in this application.

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, then the Court may make orders in your absence.

You must file a notice of address for service (Form 10) in the Registry before attending Court or taking any other steps in the proceeding.

Time and date for hearing:

Place:

Date:

.....
Signed by an officer acting with the authority
of the District Registrar

.....
Filed on behalf of (name & role of party) Lawrence Ridge, Applicant
Prepared by (name of person/lawyer) Rory Markham
Law firm (if applicable) Adero Law
Tel (02) 6189 1022 Fax n/a
Email Rory.markham@aderolaw.com.au
Address for service 3 Hobart Place
(include state and postcode) Canberra ACT 2601
.....



Details of claim

On the grounds stated in the accompanying Amended Statement of Claim (and adopting the terms defined therein), the Applicant claims on his own behalf and on behalf of each of the Group Members:

Declarations

1. ~~A declaration that, throughout the Applicant's Employment Period, the Applicant was employed by Hays to work at Blackwater as a full-time employee within the meaning of cl 10.2 of the Award.~~
2. ~~A declaration that, throughout the Relevant Period, each of the Group Members was employed by Hays to work at one or more of the Mines as a full-time employee within the meaning of cl 10.2 of the Award.~~
3. ~~A declaration that the Applicant was entitled to be paid the Award entitlements referred to in Part D of the Statement of Claim by Hays.~~
4. ~~A declaration that the Group Members were entitled to be provided the Group Members' Award Entitlements by Hays.~~
5. ~~A declaration that, throughout the Applicant's Employment Period, the Applicant was employed by Hays to work at Blackwater as an "other than casual" employee within the meaning of s 86 of the FWA.~~
6. ~~A declaration that, throughout the Relevant Period, each of the Group Members were employed by Hays to work at one or more of the Mines as an "other than casual" employee within the meaning of s 86 of the FWA.~~
7. ~~A declaration that the Applicant is entitled to the NES Annual Leave Entitlement.~~
8. ~~A declaration that, throughout the Relevant Period, each of the Group Members were entitled to be provided the Group Members' NES Entitlements.~~

Orders compensating the Applicant and Group Members:

9. In respect of each of Hays' contraventions of s 45, ~~alternatively s 44~~, of the FWA:
 - (a) orders pursuant to s 545(1) of the FWA that Hays provide to the Applicant and Group Members their Annual Leave entitlements ~~they were entitled to under the Award~~;



- (b) further or in the alternative, orders pursuant to s 545(2)(b) of the FWA that Hays pay to the Applicant and Group Members compensation for the loss they have suffered because of its contraventions;
- (c) further or in the alternative, orders pursuant to s 546(1) and s 546(3) of the FWA that:
- (i) Hays pay pecuniary penalties to the Applicant, alternatively to the Applicant and Group Members for each of its contraventions relating to him;
 - (ii) ~~Hays pay pecuniary penalties to each of the Group Members for each of its contraventions relating to each of them, to the extent that such contraventions do not, for the purposes of s 557(1) of the FWA, form part of the same course of conduct by Hays as that in respect of which pecuniary penalties are payable to the Applicant;~~
- (d) further, orders pursuant to s 547 of the FWA, for interest up to judgment on the above amounts.

Questions common to claims of Group Members

The questions of law or fact common to the claims of the Applicant and the Group Members are:

1. Whether the Applicant and each of the Group Members employed by Hays had, at the end of their employments, accrued Annual Leave entitlements~~during the Relevant Period were full-time employees within the meaning of cl 10.2 of the Award.~~
2. Whether Hays failed to pay Annual Leave entitlements the Applicant and each of the Group Members employed by Hays when their employments ended during the Relevant Period ~~were "other than casual" employees within the meaning of s 86 of the FWA.~~
3. Whether, by reason of those failures, Hays contravened s 45 of the FWA.
4. Whether the Award prohibited the engagement of the Applicant and each of the Group Members as casual employees.

Representative action

The Applicant brings this application as a representative party under Part IVA of the *Federal Court of Australia Act 1976*.

The group members to whom this proceeding relates are all persons who:



- ~~1. who were employed by Hays to work at a black coal mine in the State of Queensland in Australia and/or in the State of Western Australia in Australia at any time between 21 December 2012 and 21 December 2018;~~
 - ~~2. who were at any time between 21 December 2012 and 21 December 2018 a coal mining employee within the meaning of cl 4.1(b)(ii) of the Award and, as a result, covered by the Award;~~
 - ~~3. who worked at one or more of the Mines in accordance with the roster system alleged in paragraph 11 of the Statement of Claim; and~~
 - ~~4. who were treated as “casual” employees by Hays.~~
-
- (i) were employed on one or more occasions by Hays to work at a black coal mine in the State of Queensland and/or in the State of Western Australia;
 - (ii) ended any period of employment referred to in (i) at any time between 21 December 2012 and [insert date on which amendment takes effect];
 - (iii) during any such period of Employment performed the work of Production and Engineering employees within the meaning of the *Black Coal Mining Industry Award 2020* (which award was entitled, prior to 28 January 2022, as the *Black Coal Mining Industry Award 2010*); and
 - (iv) were treated as “casual” employees by Hays.

**Applicant's address**

The Applicant's address for service is:

Place: ~~5 Torrens St, Braddon ACT 2612~~ 3 Hobart Place, Canberra, ACT 2601

Email: rory.markham@aderolaw.com.au

Service on the Respondent

It is intended to serve this amended application on the Respondent.

Date: ~~21 December 2018~~

Signed by Rory Markham
Lawyer for the Applicant