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Court ruling sends message to employers to respect the role OHS reps play in keeping workplaces safe

A court ruling against Patrick Stevedores this week sends a clear message to employers not to discriminate against workers who raise legitimate health and safety issues, say unions.

Patrick will be sentenced in Melbourne Magistrates Court today (Friday) after being found guilty earlier this week of three charges of discriminating against an Occupational Health and Safety representative for raising safety issues on the job.

ACTU President Ged Kearney said the ruling was a warning to all employers that health and safety representatives (HSRs) have a legitimate role and should not be intimidated or discriminated against for raising concerns.

In a landmark decision on Monday, the Melbourne Magistrates Court found in favour of WorkSafe Victoria on three of five charges under section 76 of the Victorian Occupational Health and Safety Act 2004.

More than 12 months ago, a former Patrick employee and Maritime Union of Australia safety representative at Geelong Port was suspended, reprimanded and threatened with the sack for raising safety breaches where workers' lives were at risk.

Ms Kearney said safety issues are a key point of dispute in current enterprise bargaining negotiations between the MUA and Patrick, including lack of training and high casualisation at bulk and general operations.

"Health and safety reps are democratically elected volunteers who play an essential role in protecting their workmates," Ms Kearney said.

"Their presence is often a key factor in the OHS performance of a workplace. They are often the first to raise the alarm about unsafe practices and they must in turn be protected from intimidation or discrimination by their employers.

"They have a hard enough time representing the rights of workers without also facing discrimination. That's why we need to empower OHS reps and give them legal protection to keep their workplaces safe.

"At Patrick, an HSR raised legitimate concerns about safety in Geelong and was hounded out of a job by a management culture that puts profits ahead of the health and safety of workers. The wharves are dangerous places, and three waterside workers were killed on Australian docks last year.

"This ruling against Patrick should be a wake-up call to all Australian employers, who often behave with impunity, and we call on all regulators around Australia to more vigorously prosecute employers who discriminate against HSRs."

Ms Kearney said existing rights and protections must be maintained in new model national health and safety laws due to commence next year. She said Safe Work Australia should examine this decision and confirm that the new laws would deliver the same outcome.

Patrick will be sentenced in Melbourne Magistrates Court at 2pm today (Friday). It faces a fine of up to \$250,000 for each offence.

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