

RIG WORKERS VOICE



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Workers Rights Prevail in Shell Random Drug Testing Case

In what it describes as a "significant decision in protecting employee's privacy and improving drug and alcohol testing standards throughout the workforce", the CFMEU Mining and Energy Union has won a major case on random drug testing.

Union National Legal Officer Judy Gray, who ran the case on behalf of Union members employed at Shell's Clyde Refinery and Gore Bay Terminal, said that the decision to introduce oral fluid testing rather than urine samples in random drug testing would end "a widespread practice that is not only a violation of privacy but also not as accurate in detecting possible employee impairment in the workplace".

The Union's proposal to use oral fluid samples in random tests rather than urine sampling was opposed by Shell and under an agreement between the Union and the company the dispute went to private arbitration, heard by a Senior Deputy President of the AIRC Jonathan Hamberger.

The Senior Deputy President ruled in favour of the Union's case and Shell appealed to a Review Panel headed by the President of the AIRC Justice Geoffrey Giudice. The Review Panel upheld the ruling in favour of the Union and in handing down its decision said:

"The Senior Deputy President made three critical findings. First, he found that a urine test can detect the use of drugs some days, rather than hours, beforehand ("the wide 'window of detection'").

Secondly, he found that oral fluid testing detects recent use only and is therefore less likely to detect drug use in an employee's own time.

Finally, he concluded that while neither test measures impairment, a positive oral fluid test is far more likely to indicate actual impairment than a positive urine test. In the circumstances His Honour decided that it would be unjust and unreasonable to permit random urine testing..."
(Source: CFMEU Press Release 22nd May 2009)

This case is of particular importance to MUA and AWU members. Both unions have played an active role nationally in the campaign for a balanced approach to drug and alcohol testing that both protects basic individual rights as well as ensuring a safe workplace.

Both unions have argued that all testing should be about impairment and not about what somebody may or may not have been exposed to weeks earlier while on leave.

The difference between urine and saliva testing is that the urine method will show up exposure to certain substances several weeks after exposure, whilst saliva testing only identifies recent and heavy exposure, which gives a more accurate indication of actual impairment.

The MUA-AWU Offshore Alliance is YOUR voice!!

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