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▶▶ [Schweppes back in production, as pre-arbitration talks commence](#)

16 February 2012 4:14pm

Schweppes Australia's Tullamarine bottling plant has returned to production after locked out workers returned to work yesterday, while talks are now underway before Fair Work Australia.

The talks and return to work follow United Voice on Friday supporting the company's application to Fair Work Australia to terminate industrial action under [s423](#) on the basis that the resulting company lockout was causing economic harm to employees.

Schweppes on December 15 locked out about 155 production workers who were taking protected industrial action.

The company then applied on December 19 for a termination order, taking the unusual step of arguing that its own lockout was causing economic harm to its employees, rather than to the company.

United Voice successfully opposed the application, presenting a petition from the Tullamarine employees opposing termination (see [Related Article](#)).

However, United Voice advocate Eugene White told the February 10 hearing (see the [transcript](#)) that there was now sufficient evidence of economic harm to employees to support a move to consent arbitration.

However, White said it was important to acknowledge that the Schweppes lockout was the source of harm to the employees.

He said there was no "evidence or suggestion" that the parties had not met good faith bargaining requirements, but that "the length of time and the history of the negotiations" meant that it was "not too soon" for a termination order to be made.

White also told the hearing that the union and the company had reached an agreement that if a termination order was made effective immediately, employees would resume being paid from February 8 rather than February 15 which was the earliest date that the company would be able to resume production.

He said that "for practical reasons the employer won't require work to be done until next Wednesday, but that doesn't affect the cessation of the protected industrial action".

In its renewed application for termination, lodged on February 10, Schweppes reported that the 155 employees had been locked out for some 58 days and that it was estimated that, on average, they might have lost some \$15,000 in wages, or 20% of their annual wages.

Schweppes said that the parties had engaged in conciliation in the period since the previous application "to no effect" and that Fair Work Australia had ceased conciliation "on the basis that there is no further utility in doing so".

"On this occasion 'leaving the parties to their own devices' will not lead to the impasse being broken".

Senior Deputy President Les Kaufman acceded to the application (see [Related Article](#)), saying that he was satisfied that statements tendered to the hearing showed that there was at least one worker "suffering serious economic harm" and that other evidence from the previous hearing also showed that it was "more than likely, or almost certain, that other people are in the same position".

He said in "in light of the agreement between the parties", his discretion in the matter could "really only go one way and that is in favour of terminating the industrial action".

The unions and company are now in the compulsory 21-day negotiating period required before moving to a workplace determination of the long-running dispute.

Senior Deputy President Kaufman is yet to issue his reasons for terminating industrial action.

[Fair Work Australia and Schweppes Australia Pty Ltd; United Voice - Victorian Branch, B2012/461, February 10, 2012](#)

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