

Thursday 10 February 2022



The Chair
Select Committee on Job Security
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Parliament House
Canberra ACT 2600

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By email:

Dear Senator Sheldon,

I write in response to your letter of 9 February 2022 requesting explanation regarding MADEC's alleged treatment of witnesses.

Firstly, I would like to convey that MADEC fully appreciates and respects the authority of the Senate Select Committee. I trust that my correspondence thus far has not indicated otherwise. I assure the committee that MADEC would not condone any form of adverse action or penalty imposed on an individual who has given evidence to a Parliamentary Committee. In addition to our understanding that it would be unlawful, such action would be contrary to our organisational values and our internal policy framework.

Immediately following the hearings on Wednesday 2nd of February I personally briefed the management team of the Labour Hire Division of MADEC to ensure the team felt supported and understood the absolute need to treat all witnesses without prejudice.

The allegations raised in your letter have been discussed with MADEC staff that have been in communication with the workers since Wednesday 2 February 2022 and staff that are responsible for the management of their assignments. To the best of our ability and knowledge we provide the following feedback. In providing information and context on the specific allegations, we have assumed that it is applicable to the Samoan workers on work placement with Sunnyridge Farms.

Accusing Workers as Having Absconded

Prior to Wednesday 2 February 2022, MADEC staff members Sean Leesue (Victorian Labour Hire State Manager) and Rob Hay (Worker Liaison Officer) had come to the conclusion that

a group of 6 Samoan workers had absconded. Two of the members of this group were witnesses at the hearings.

MADEC staff formed this belief as the workers had not been at their accommodation or at work for approximately 4 days, had provided no notice that they would be absent and were not contactable. Typically, this is what is experienced when a worker has absconded so it is not an unreasonable assumption.

On Thursday 3 February Rob Hay was able to make contact with the workers and met them at their accommodation. Amongst other things, he advised the workers that prior to their return, he and the farm (Sunnyridge) were forming the belief that they had absconded. They had no information available that would have suggested otherwise. Please refer to Mr Hay's recollection of the discussion (attached). I have no reason to conclude that the attached recollection of discussions from Mr Hay is anything but accurate or that his engagement with the workers was anything but genuine. We are not aware of any other communication that could be relevant to absconding.

Threat of Repatriation

MADEC staff that are responsible for the Sunnyridge assignment have advised that they cannot recall having discussed repatriation with the Samoan workers. Should a worker wish to repatriate, we would of course provide the necessary assistance, but ultimately it is a matter of worker choice.

Withdrawal of Shifts

As a labour hire provider, MADEC works to the labour requests and directions of host employers, such as Sunnyridge Farms. MADEC was contacted in writing by the Sunnyridge HR Manager, on Monday 31 January 2022, with a request to relocate 6 Samoan workers by Friday 4 February 2022. Sunnyridge advised that the workers were disengaging from work and not attending on scheduled days of picking which was placing pressure on their operations. The HR Manager also advised that they had been approached by Samoan team leaders who also stated that 6 workers did not want to be at Sunnyridge anymore. Two of the members of this group of 6 provided evidence at the hearings on Wednesday 2 February 2022.

In response to this request MADEC commenced the process of trying to find an alternative work placement. As outlined in the attached letter from Rob Hay, workers were advised on Friday February 4th that the farm did not have them rostered on for Saturday 6 January 2022, but that they were still employed by MADEC. At this stage we had not been able to find work alternatives so had not approached the workers with relocation offers.

Conscious that the timing of the end of their work assignment immediately followed the committee hearings, MADEC went back to Sunnyridge to ask that they allow work for a further week to give MADEC staff more time to find work alternatives for the 6 workers. Sunnyridge agreed to this request, meaning the workers last shift that would be made available by Sunnyridge would be on Friday 11th of February.

While the planned workers relocation is not a product of the committee hearings, the fact that two workers were then witness has complicated the relocation considerably. We now find ourselves in somewhat of a bind. We cannot provide work at Sunnyridge Farms and have identified alternative work opportunities, but if we now take that to the workers we are at risk of being accused of wrongdoing. In truth my front line staff are now concerned about engaging with the workers for fear of the repercussions, which is going to make fulfilling our responsibilities as an Approved Employer difficult.

I have therefore requested that the Department of Foreign Affairs and Trade intervene and assist with resolving the situation. Pending resolution, MADEC will pay the 6 workers in question, including the two who provided evidence at the hearings, at casual hourly rates for 30 hrs per week (commencing 11/2/2022) while they are in between work assignments to ensure they are not disadvantaged.

I assure committee members that MADEC has not directed or orchestrated any action to penalise any of the workers that provided evidence to the committee. Any staff member behaving in such a matter would be acting without the authority of the organisation and contrary to management direction.

Please do not hesitate to contact on _____ or by email _____ should you require additional information to give you confidence that witnesses are not being subjected to improper interference.

Yours sincerely,

Laurence Burt
Chief Executive Officer
MADEC Australia

From: Rob Hay
Sent: Wednesday, 9 February 2022 10:27 PM
To: Sean Leesue
Subject: My Statement - Samoan Workers

Hi,

Statement from Robert Hay, Seasonal Worker Liaison Officer, Harvest and Labour Hire Services, MADEC.

On Sunday January 30th, I was advised sometime around midday (I cannot remember who advised me) that some Samoan workers from the Sunny Ridge farm at Seville, were talking about suing the farm where they worked, and their accommodation provider, over their conditions.

I went to their accommodation premises; Green Gables at 16 La La Avenue, Warburton; to talk to them.

There were five Samoan workers;

I spoke to them all together and asked if they were intending to take any legal action against the farm or the accommodation provider, or engage in any legal action, or sue them, and they categorically denied that they were doing anything like that. I asked if there was anything that they were unhappy about and they told me that they had asked their team leader to ask Peter the farm manager if they could move to a different farm. At no time during our conversation did they tell me that they were intending to leave the farm or the accommodation for the next few days to go to Canberra or anywhere. I would definitely have understood that kind of message even considering that their English is not perfect. I have been able to effectively communicate with them about speeding fines and nominating someone else as the driver, and things like keeping their rooms tidy, or using the rubbish and recycle bins correctly, so I definitely would have understood if they told me they were "leaving" and going to "Canberra".

I did not speak to these workers again until Thursday February 3rd when I was asked to try to find out where they were. I called their team leader at around 11am and advised me that they were intending to return today. I also discovered that had joined the other five workers. I called , because I had had quite a bit of contact with him over speeding fines. I am not sure if it was him I was speaking to or Talipope. I was told they would be back at Green Gables in a couple of hours. I advised that because they had not been to work for the past 4 or 5 days and because they had not told anyone where they were or what they were doing, that the farm was beginning to think that they might have absconded. I also sent him a text telling him that I would "come to Green Gables in a few hours to talk to you about where you have been for the past few days and why you haven't been working".

When I went to speak to them later that day at around 5pm, they were all sitting in a semi-circle along with two women that I did not know. As I approached I greeted them and the women and introduced myself as Rob. One of the women that I now know is called Lieta, and was involved with the Senate Hearing, told me that she was being their advocate and that they had been witnesses to the Senate enquiry and that because of that no action could be taken against them. She did not tell

me her name or her position, except that she worked in Canberra with people of different ethnic backgrounds. She claimed that they could not really understand or speak English at all and would not know what the work “abscond” would mean and wanted to berate me about using that word when I spoke them earlier in the day. She advised that [redacted] had recorded my phone conversation. I said that I thought they probably did understand and pointed out that I had communicated effectively with Jeremia about his speeding fines. She insisted on talking at length about their conditions, their pay, their rooms, their deductions, and that it was my responsibility to recognise that they could not understand English and arrange for an interpreter. During this time the 6 workers were quiet and just watching. When I tried to explain to Lieta that I was not the right person to complain to, she really did not want to listen. When I offered to give her contact details for my managers she was aloof and difficult. I told her that I could see that she was angry and she agreed she was. In my view she was rude and uncooperative. I advised that I had to go as I had other work to do and wished them luck with their quest. She said she also had to go. I gave her [redacted] phone number and when I asked her as she was leaving if she had spoken to him she said she had called 4 times and couldn’t get through and waved the phone toward me. I was speaking to [redacted] at the time and he said he had not received one call. I asked for her name and contact number but she refused to give it to me. Then she left.

In accordance with MADEC management advice my next communication with these Samoan workers was on Friday February 4th to advise them that the farm did not have them rostered on for Saturday, but they were still employed by MADEC, and MADEC was trying to get them rostered on again. Talipope sent me a text on Saturday evening at 7.15pm asking me if I could please ask [redacted] to bring the key for the white car that they would use to go to work tomorrow. When I went to Green Gables to follow this up they had already gotten the key.

They went back to work Sunday February 6th.

Robert Hay.

Rob Hay
Seasonal Worker Liaison Officer

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