

Hanh's Speech to Senate Inquiry into Fair Work Bill

My name is Hanh Le. I am a Vietnamese Community Worker with Asian Women at Work. I have also worked in Australia as a clothing outworker, a factory process worker, and in aged care.

The lack of unfair dismissal laws has had a big impact on our members. It is common for employers or supervisors to threaten to sack workers, or when issues are raised for the boss to say "if you are not happy then you can quit", instead of taking the issue seriously.

This has created an atmosphere where workers are reluctant to speak up about issues in their workplace.

One of our members has been working in the food industry for 5 years. She was working part time, 3 days a week, a total of 24 hours. She is very hard working and never complained. One day recently she was called by the boss and told she would now be working 4 hours a day for 5 days a week, a reduction in hours to 20 hours.

There was no consultation and no explanation given, only the comment "and if you don't like it you can quit". She became very distressed about her reduced hours, reduced income and need to now travel to work 5 days. She watched the others in the workplace and no-one else had to leave early like she did. She feels ashamed, as if somehow everyone now thinks she was not a good worker and so she has been made to work differently to the others. She feels picked on, and feels that it is unfair as she has always worked so hard.

When we encouraged her to ask her boss the reason for the change, she said she was too scared because he might sack her for speaking up.

In another workplace, in the meat processing industry, where a number of our members work, the supervisor very regularly threatens to sack the workers. The room they work in is very cold. The workers complained before about being too cold, and sometimes walk up and down in one area to try to keep warm. The supervisor says he will sack them if they work up and down any more.

He makes this threat so often they call him "Mr Sack" among themselves. But they are scared that he will actually do it, so they don't complain and they don't walk to keep warm. If they see something wrong in the factory they don't report it because they fear they will be blamed, and might lose their job.

Our members are very pleased to see the unfair dismissal laws in the new Fair Work Bill. However, the Small Business Fair Dismissal Code is not strong enough to protect women in the kind of situations I have described.

The Code only requires a single warning before dismissal and that warning does not even have to be in writing. Some of the threats of dismissal made on a regular basis in our workplaces could be claimed to be a “warning” without any of the formality that such a process should involve. And in the context of such regular threats, the code does not give workers confidence that they can defend themselves, so they will continue to be silent about issues and dangers in the workplace.

When there is no written warning, and limited formality required in the dismissal process, it is also possible that some of our non-English speaking background women will not understand that they have been warned, or may not understand any reasons given for a warning when it is only done verbally.

We want to see the fair dismissal process for small business formalised.

Warnings should be in writing, with clear reasons documented. Workers should be given the opportunity to discuss the reasons and explain their actions, and defend themselves if necessary. The warning should be given in a formal meeting, with the opportunity for a support person present. This support person can also help them understand what is happening.

Written warnings can also provide clarity for both sides – making it clear what the problems are, what is needed to improve, the timeframes for improving your work.

Written warnings can be taken home and workers can get their family members and friends to help them understand the content.

We also argue that a single warning is not fair for small business workers. They should be given three warnings, as has been the practice for a long time.