

Senate Standing Committee on Economics
ANSWERS TO QUESTIONS ON NOTICE
Innovation, Industry, Science and Research Portfolio
Budget Estimates Hearing 2011-12
30 May 2011

AGENCY/DEPARTMENT: INNOVATION, INDUSTRY, SCIENCE AND RESEARCH

TOPIC: Dismissal Codes Small Business

REFERENCE: Question on Notice (Hansard, 30 May 2011, E85)

QUESTION No.: BI-32

Senator RYAN: Sure. Would it surprise you to learn that of those 609 applications effectively against the use of the code by an employer, I understand that only two had their claims rejected by Fair Work Australia? That is, the decision on the employer and the utilisation of the code for a particular decision was upheld in its entirety. Would that surprise you that only two out of 609 were considered to be fully compliant with the code?

Senator Sherry: The government has made it clear that the current unfair dismissal laws strike the right balance between protecting employees and employers. Beyond that—

Senator RYAN: There were 609 applications and only two of them were upheld in the employer's interest. I am not alleging any malfeasance on behalf of Fair Work Australia. Surely it would be a reflection of a very poor code if only two businesses managed to comply out of all the applications against those decisions?

Senator Sherry: As I said earlier, the government believes the unfair dismissal laws do strike the right balance. Beyond that, I do not have any observation. I have not had a chance to look at the data that you are quoting and in detail and in context. I am happy to go away and have a look at that and perhaps try and identify causational factors and issues around the data. But beyond that, I do not have any specific conclusions.

ANSWER

The Department of Innovation, Industry, Science and Research has advised that the number of unfair dismissal claims lodged in a period does not correspond to the number decided by Fair Work Australia (FWA) in the same period. As noted in the answer to BI-29 the majority of unfair dismissal claims are resolved and do not require a decision by FWA. There may also be some carry over of claims across reporting periods if claims are lodged but not finalised, or do not proceed to a decision, until the next reporting period.