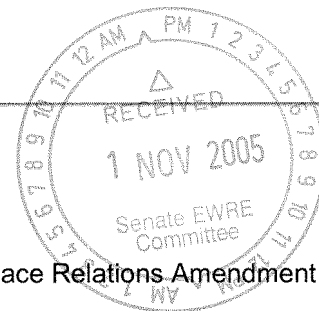

From: Paul [pmkiem@ozemail.com.au]
Sent: Tuesday, 1 November 2005 2:22 AM
To: EET, Committee (SEN)
Subject: Submission to a Senate Committee inquiry re: Inquiry into the Workplace Relations Amendment (WorkChoices) Bill 2005



Secretary
Senate Employment, Workplace Relations and Education Committee
Department of the Senate
Parliament House
Canberra ACT 2600
Australia

Dear Secretary,

I am a student currently working in a restaurant where the employer is offering AWAs to the employees. It is a new workplace, and as such everyone has been offered AWA's as a condition of employment. The AWA in question has no definition for casual work and yet many of the employee's are under the false impression that they are casual, despite the requirement for employers to explain the terms of the AWA. The actual agreement requires workers to be defined as Part-time, and yet they receive no guarantee for minimum hours, no defined notice for rosters and furthermore the roster can be changed at the discretion of the employer. Those are just a few of the discrepancies between the AWA offered and the relevant Part-time conditions under the award.

Many have not received lodgement receipts from the Office of the Employment Advocate (OEA), more have not received approval notices from the OEA regarding the AWAs, and to make matters worse very few actually have copies of the AWA that they signed. All of these are conditions under the AWA that have not been met.

The workforce includes students, single parents, and people with young families. The AWA offers conditions that many are unhappy to accept, but for people in such financially vulnerable positions, the option to refuse work under the AWA is simply not practical. Others are confused at the nature of the conditions, having not had the terms adequately explained. Many are simply too scared or intimidated to approach the employer regarding the conditions they work under.

I am currently not under the AWA. This is because despite me having signed it four months previously (they are supposed to be lodged with the OEA within 21 days of signing), my employer returned it to me to sign an additional attachment. I refused and requested a new form if they wished to offer one to me. I was then offered a new AWA. The same day that I questioned my employer about my status as a Casual or Part-time employee I was offered time off work in order to sort out the misunderstanding. Feeling that my job was at threat I have agreed to work as though I were covered by the AWA until the issue is resolved.

Currently I am being offered either Part-time under the AWA, or Casual under the Award. My employer refuses to offer Part-time under the award. I work three shifts a week, the longest being on a Sunday. If I refuse to sign an AWA, which grants me Casual conditions for a Part-time wage, I must accept the Casual award. As the award incurs penalty rates on a Sunday (much higher than under the AWA which offers no penalties), should I accept the award my employer is certain to stop offering me a Sunday shift.

What I am trying to do is outline how AWAs are already being used to exploit vulnerable workers. People such as students and young parents simply do not have the option of risking their income.

1/11/2005

Making it easier for employers to force AWAs, and restricting employees access to unions will severely impact on a vulnerable portion of the community. To take away rights to unfair dismissal will only serve to diminish the already limited capacity for employees to claim working conditions that are fair and reasonable. For vulnerable workers, there is no real choice between employment under an AWA and no employment. Furthermore, casual workers have no protection should an employer choose to reduce their shifts because they refuse an AWA.

In regards to the OEA I have some particular concerns.

1. It is possible for employers to electronically lodge AWAs for assesment. An employer must declare the date of signature, but the cpacity is there for employers to lie. In cases such as my workplace, where people are confused by the AWA and have not been given copies this may go undetected.
2. The OEA produces an Information statement for employee which must be included with an AWA. The AWA I received is published by an association called Restaurant and Catering Australia (R&CA). R&CA is an association designed for the interest of employers, and I am aware that the OEA employs at least one representative from R&CA. R&CA sell information on AWAs and OH&S. I have a copy of the current Information Statement for Employees, and there are some significant discrepancies between the Information Statement for Employees written produced by the OEA and the statement that is published by R&CA. In particular, whilst the OEA statement contains free contact numbers for employees regarding information on AWAs and OH&S, the statement published by R&CA does not contain these numbers. I struggle to understand how this is not a serious conflict of interest.

Thank you for your time and consideration.

Sincerely,

Matthew Kiem

Contact:

Matthew Kiem