

From: Sevegne Newton [REDACTED]
Subject: Fair Work Ombudsman and Fair Work Commission
Date: 22 May 2018 3:20:51 pm AEST
To: [REDACTED]
Cc: [REDACTED]

To: The Hon Craig Laundy, Hon Grace Grace, Hon Shannon Fentiman and Hon Di Farmer

Dear Ministers

In December last year we took in a 16 year old young man named [REDACTED] who found himself homeless.

We worked with [REDACTED], Centerlink, Head Space and his Year 12 Co-ordinators to find him a home, financial assistance, counselling and support to finish his final year at School.

He also secured work at a local Hogs Breath Family Restaurant [REDACTED]. Where he worked from December 2017 to April 2018 till he found it to difficult to maintain with his final year studies.

During Easter and for much of his tenure he worked Friday nights, Saturdays, Sundays and Public Holiday receiving \$9.20 an hour. I was surprised when seeing his payslip for Easter that his wage was so low. I went in to see the manger who said Hogs Breath paid no penalty rates. I then sent a letter to the owner [REDACTED] explaining that while [REDACTED] was told this, in the correspondence I signed they're was not anything pointing this out. After a month of requesting it I got the Workplace Agreement between Grunt Pty Ltd 2005-2008 and the Fair Work Commission.

I initially contact the ombudsman by phone and then through their website, when one of the staff members looked at the agreement they explained the pay off for the loss of penalty rates was an 11% loading on all hours, which they did not appear to be paying. Regardless of the fact that most younger and cheaper employees were doing all the shifts that would have incurred penalty rates. The next letter I received from the Ombudsman was that because it was an agreement I had to go the Fair Work Commission. I then filled in the form for the Fair Work Commission and posted off correspondence.

Yesterday I spoke to [REDACTED], [REDACTED] who informed me that the Fair Work Commission did not have the power to enforce Employers to pay the rates in Agreements that they had ratified and there was nothing they could do for me. As I didn't think I had heard correctly, I reiterated that the Ombudsman couldn't do anything because it was an Agreement not an Award and the Commission could do nothing because they had no power to enforce Agreements that Employers had entered into with them. His reply was

“yes” When I asked what I should do next he said “take it up with Parliament” .

So we have the case of a National Chain of Restaurants taking advantage of young workers by not paying them the wages they had gone to the trouble of going to the Fair Work Commission and do a legally binding Agreement with, yet the same organisation is completely powerless to make Employers comply. The fair Work Commission says no employee will be worse off under an agreement than under an award, well this is quite clearly not true as young workers are being exploited.

So where to next, [REDACTED] gave me the name of a legal aid service but as he suggested I go to Parliament I have, and I am hoping someone there can help when the Organisations we are meant to believe will offer assistance can't.

i look forward to hearing from you.

Yours Sincerely

Sevegne Newton