



EDUCATION, EMPLOYMENT AND SMALL BUSINESS COMMITTEE

Members present:

Mrs LM Linard MP (Chair)
Mr N Dametto MP
Mr MP Healy MP
Mr BM Saunders MP
Mr EJ Sorensen MP
Mrs SM Wilson MP

Staff present:

Ms L Manderson (Acting Committee Secretary)
Ms E Jameson (Inquiry Secretary)

PUBLIC HEARING—INQUIRY INTO WAGE THEFT IN QUEENSLAND

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 12 SEPTEMBER 2018

Maryborough

WEDNESDAY, 12 SEPTEMBER 2018

The committee met at 9.03 am.

CHAIR: I declare open this public hearing for the Education, Employment and Small Business Committee's inquiry into wage theft in Queensland. I would like to acknowledge the traditional owners of the land on which we are meeting today and pay my respects to elders past, present and emerging. My name is Leanne Linard, member for Nudgee and chair of the committee. With me today are Mr Bruce Saunders, the local member for Maryborough; Ms Simone Wilson, member for Pumicestone; Mr Michael Healy, member for Cairns; Mr Nick Dametto, member for Hinchinbrook; and Ted Sorensen, member for Hervey Bay, who is a substitute member for the member for Currumbin, Jann Stuckey.

This inquiry was referred to the committee on 17 May 2018. The committee is required to report to the parliament on the inquiry by 16 November. The terms of reference include that the committee examine the incidence of wage theft in Queensland; the impact of wage theft on workers, businesses, the economy and community; the reasons why wage theft is occurring; the effectiveness of the regulatory framework; and options for ensuring wage theft is eradicated.

Today's proceedings are similar to the proceedings of parliament and are subject to the standing rules and orders of the parliament. The proceedings are covered by parliamentary privilege which means evidence can be given freely and openly without fear that the evidence could be used in legal proceedings. That being said, if evidence is provided which reflects poorly on an individual or organisation the committee may choose to receive but not publish the evidence or may provide that individual or organisation with an opportunity to respond to the evidence before the committee makes it public. The proceedings are being recorded by Hansard, and a transcript will be published on the committee's website unless there is a good reason not to. Before we commence I remind everyone to ensure their mobile phones are switched off or turned to silent.

BARTRUM, Ms Sara, Private capacity (via teleconference)

CHAIR: Welcome, Sara. How are you?

Ms Bartrum: I am very well—a bit nervous.

CHAIR: Thank you for joining us. Hopefully we will not have too many sound issues. We can hear you and hopefully you can hear us. Would you like to explain to the committee why you wanted to talk to us today and tell us your story before we open for questions?

Ms Bartrum: My name is Sara Bartrum. I live on the Gold Coast. I worked for an employer in Nerang, Tiffany Holdings trading as Compu Pool Products. They were manufacturers. I worked in the office. I did payroll, invoices and all the general office stuff mainly on my own. I started work in April 2007 and resigned in May 2017 just after 10 years. During that time my days kept getting changed from five days to four days to three days back to four days, and in the end for the last year or so I was working two days a week.

I am in my sixties—I am 61—and when I gave notice my employer just put it in his pad and that was about it. Over the next couple of weeks I continued to do my work and do the hours required. On what was supposed to be my last day I got a text to say, 'Factory closed today. No need to come in. See you next week.' I thought, 'It's my last day.'

Although the business ran out of Hilldon Court property, he owned it with his father under a different name. He was the owner of the building as well as working there so he has got fingers in a couple of pies. They had been having trouble paying bills and mortgages, and they had been locked out again. The following week I found out it was open again. I asked my daughter, 'What do I do?' She is a psychologist. I thought she was a good one to ask questions. She said, 'Mum, you have two choices: you can either go next week and sort the final bit out or just leave it. It's finished.'

I myself did not feel ethically that that was the right way to do it. I went in the following week and I said to him, 'I sent you the text. I thought it was supposed to be my last day.' He said, 'I looked at it then and realised it was, but I appreciate you coming in today and sorting stuff out.' I was only

planning on being there a few hours. I was there a lot longer. At three o'clock I was going to leave but I didn't. Then at half past four he said, 'I've got to leave early. Just lock up as usual, will you?' I said, 'What about the keys?' He said, 'Just drop them in later. Good luck and I will get back to you about when I am paying you.' I said 'Okay, I will talk to you during the week.' He said, 'A week should get me sorted out,' because I knew he was having financial problems. I finished up. I did not worry about the extra time I worked. I thought, no, that is my decision. I wanted to leave the job in a way that I felt was right. I still had the keys to the whole factory—everything. To me, it showed the trust he had in me.

By the end of the following week I hadn't heard from him. I got in touch with him about a week and a half later. He did not answer the call so I sent him a text. He said, 'Can you come and meet?' I said, 'Okay, I will come through Nerang and meet you.' I think it was a Monday afternoon. He said, 'I don't think all this is right. You didn't do this.' I said, 'I did.' He started arguing about the pay. I said, 'But you haven't paid me anything. You do owe me.'

Basically he was refusing to pay me. I kept in touch with him over the next couple of weeks and got no answers to emails, phone calls or text messages. Then I went to Fair Work. I put in a claim to Fair Work and gave them all the paperwork. Crazy enough, I have all my pay slips going back to 2009 I think. The lady was lovely, but I think she works out of Tasmania or somewhere down south which makes it very hard for her. She kept saying to me, 'He's ignoring things,' and all this. In about August she said, 'You are in Queensland. Let me check. I think you have to claim your long service leave through Industrial Relations in Queensland,' and apparently that was the case.

Early in September I put in the claim to Industrial Relations. The lady was wonderful. She got back in touch with me. She read it all. Then she started going to see him because he would not answer her and he would not deal with her. Eventually in October she re-did the calculations and he was ignoring her. She got him to agree to it, and at the end of November I got my long service leave paid.

Then I went back to Fair Work because she said, 'No, I can't follow up on the leave entitlements. You have to do that through Fair Work.' I went back to Fair Work and told them I had been paid my long service leave or an adjusted amount and she said, 'You are still owed it.' So she followed up again. Then on 6 December 2017 she sent me an email which said, 'Your employer has been told on a number of occasions that he owes you the money. He does not seem to be doing anything. Now you have to go to court.' I said, 'Who pays for that?' She said, 'You will have to.' I thought what is the point? I am owed about \$3½ thousand gross in leave entitlements on my final pay, but I would have to spend more money to get that money and I know jolly well he will spend a fortune on lawyers to argue not to pay it. Also even if I get a court settlement I have friends who do bookkeeping, payroll and stuff who have worked for people who say that they will not pay the court settlement. Where does that leave me? I have not got the money to keep going to court? Basically this money is sitting there owed to me and I am in no man's land.

I do not blame the lady at Fair Work. She did what she could do in her job. The lady at Industrial Relations was wonderful. The whole thing was great. It took her time but she got there. But she could go and see him and I think that made a big difference. She said jokingly to me one day, 'I think the only reason he paid you is to get rid of us,' and I said 'Yes, probably because you keep turning up in his office.' She said, 'Yes and he can't ignore me when I am sitting in front of him.'

Basically I am still owed wages that are mine and my entitlements. The super was always late. I think most of it has been caught up, but I had to put a claim in to the ATO for the super for the last bit and I got told that you do not get super on leave entitlements. I thought why not? If I take annual leave when I am at work you get it. That has probably gone on a bit long, but that is my story.

CHAIR: No, that was very helpful, Sara. Thank you for the detail that you have provided. We will open now for questions. I will introduce the member before they speak so you have some sense of whom you are speaking to. It is Leanne Linard here, member for Nudgee and chair of the committee. I will ask a few questions, Sara, and then I will pass over to another of my colleagues.

Ms Bartrum: I did see you all on Monday so I have an idea of what you all look like.

CHAIR: That helps too. Sorry, Sara, I have a note here that you were at the Gold Coast hearing on Monday. I do not know if I met you there.

Ms Bartrum: No, you didn't. By the time I found out and then asked to speak they already had the program set up, and everything ran late so that is why they suggested I do the teleconference with you today, which I thought was lovely.

CHAIR: We were fully booked on the Gold Coast. Sara, I am just checking a few details. You mentioned that you lodged a claim with the ATO for missing super. Was that just in regard to the fact that you felt you should have been paid super on your leave loading or was there actual missing super?

Ms Bartrum: It was late. I think we got paid some of our 2015 super in 2017. However, I was doing the payroll and I was doing everything, which is why I could not understand why he questioned my calculations. Over the years I had probably done long service leave for about five people and I had done payroll for about 45 people on and off, at different times as they had come and gone. He had never questioned it, except for mine. I always gave him the calculations to review and then he paid it. Because I was doing it and the ATO were on to him for the super because people had lodged claims, I had lodged a super guarantee up to 31 March 2017. I knew that the ATO already had all the paperwork they needed up to March 2017, so I lodged the claim from 1 April 2017 until my final day of work.

CHAIR: What was the quantum of the claim for underpaid super, Sara?

Ms Bartrum: Do you mean for all those years?

CHAIR: Yes. How much should you have been paid and had not been paid? How much were you short?

Ms Bartrum: I believe from talking to Harriet at the ATO, and I have not talked to them recently, it has all been paid up to 31 March. At the stage when I talked to her, it was only that last quarter we had to deal with. Although I refer to my super fund, I cannot quite work it out and was thinking it was about time I sent her another email and asked her how it was going. I have not received a letter, either.

CHAIR: You have unpaid super but you are not sure how much?

Ms Bartrum: Mainly the last quarter.

CHAIR: You mentioned \$3,500 worth of leave entitlements that you have not been paid. What was the amount of long service leave entitlements that the Queensland industrial relations agency was able to help you get paid?

Ms Bartrum: Hang on a minute; I do have that on a piece of paper here, where a wonderful lady sent me the calculations. Gross it was \$8,736.99.

CHAIR: Thank you. I am just taking some notes about the total quantum of that. You mentioned that you kept your pay slips since 2009. Something we often hear, Sara, is that employees are not provided with appropriate records. I imagine that, given you were doing the payroll, you were ensuring there were appropriate records?

Ms Bartrum: I did the payroll and I did the pay slips.

CHAIR: That also means when I ask were you being paid correctly, you are likely to say, 'Yes, I was being paid correctly'.

Ms Bartrum: Yes, I was paid as it was agreed. Yes, that was not a problem. Actually, I was not a member of the union. I was not on an award. My pay was commensurate with my work, let us put it that way. If I was on award level, I would have been paid less. I was actually paid above award rates.

CHAIR: That is good. You said 'as agreed', so there was a verbal or a written contract?

Ms Bartrum: Verbal. He does not put things in writing. Even when I told him to he did not. Unless I wrote the letter, he did not do it, but he always knew what he had agreed to and I used to make notes. Because we were using an accounting package, I used to make notes in there in the employees' part, so that if there was ever a question I had the note there to refer back to, of dates and times and things like that.

CHAIR: How many other employees were working for the organisation?

Ms Bartrum: The maximum at any one time was up to 22, but come the end, because of his financial problems, it was probably down to about 12 or 15.

CHAIR: I note that you have said that Fair Work were very friendly and happy to give you information. Did they write to your employer stating that you were owed leave entitlements and giving him that quantum of \$3,500?

Ms Bartrum: Yes. She said the last attempt by Fair Work was 15 November 2017.

CHAIR: So they have written to him, but he was essentially ignoring them?

Ms Bartrum: Yes, emails are easy to ignore.

CHAIR: Was that escalated at all or is that when they said that you need to go to court and pay your own fees?

Ms Bartrum: I needed to go to court. Financially, emotionally, physically, it put a huge strain on me. In one respect I thought, 'Do I keep going?', but then I thought, 'How much more can I invest in something?' He has done this with a few people; I am not the only one. In the end, you have to weigh up whether it is worth going on, because you are getting nowhere.

CHAIR: Thank you very much. I will invite the member for Pumicestone, Mrs Simone Wilson, to ask questions now.

Mrs WILSON: Sara, how did you find out about the inquiry?

Ms Bartrum: Through Meaghan Scanlon. Actually I heard on the radio, I think it was around Labour Day, the Premier announced doing something about it. It took me about a week to pluck up the courage, I must be honest. I walked into her office, because I know where it is. I spoke to the nice young person behind the counter about my wages. They said, 'She would love to talk to you'. I said okay and left my phone number. I did not hear anything for about a week or so. I really was not rushing, because I thought she would be really busy. Anyway, she got back in touch with me. I went and saw her and told her my story. She could not believe it, but said, 'Yes, it does happen a lot'. She said that this is the sort of thing that the committee would be wanting to hear. Then I happened to hear on the radio that it was on the Gold Coast on Monday and that was Thursday night. I thought, 'Hang on a minute'. Then I emailed Meaghan and got the information.

Mrs WILSON: I have another couple of questions, although I know we have time constraints on this. You were the pay master. How were you given updated information in relation to paying the other 22 to 12 or 15 staff?

Ms Bartrum: They filled in time sheets. This makes me laugh, because I know there have been inquiries into pay slips and pay things. In the last few years, wages were paid late, but everybody was given the pay slip because I did the pay slip. There were other businesses in Nerang where they were paid on time every week and they did not miss a beat, but they did not get a pay slip. Those poor people got fined. This guy, who was not paying the wages but was giving them a bit of paper, did not get investigated. I thought, 'You can't win'.

Basically, they filled it in. Nick worked out exactly what people were getting paid, the hours they were getting paid and I was told. I basically processed it on the information that I was given.

Mrs WILSON: You also mentioned that you were using an accounting program, which definitely helps with doing those pay slips. Are you able to let us know what accounting package that was?

Ms Bartrum: QuickBooks. It was a desktop version.

Mrs WILSON: With the owner telling you what to pay each worker, did you know whether they were on awards or EBAs?

Ms Bartrum: Some of them were staff, so they were on a salary. Some of them were workers, but they made arrangements personally with him about how much they were getting paid. I could pay them, but wage adjustments were up to the owner, Nick Miller. Basically, I made sure they were not paid below the minimum standard wages and that they got their leave entitlement. But he basically agreed any pay rises, starting wages everything with them, depending on their position and what they were actually doing—if they had some electrical qualifications or had just basic labour skills. There were different rates for the different jobs.

Mrs WILSON: You just said you made sure they were not being underpaid. How were you checking that information?

Ms Bartrum: Once a year the minimum wage is put out, so I made sure that everybody was above the minimum wage. I think it is a government website that you can go on to check it out.

Mrs WILSON: How did you find using that website? Was it easy to find out whether the staff were being paid the right award?

Ms Bartrum: Years of practice and ringing them up. I say that because of the nature of the work. I cannot remember the exact award now, as it is a couple of years ago. Basically, it was the electrical type one—not the Electrical Trades Union but an electrical type of award. We had a general manager at one time and he went into it as well and said, 'Yes, this is the one that I have found out through discussions with Fair Work and everything is the most relevant'. I had other people helping me.

CHAIR: Thank you, Sara. We will move to the member for Cairns, Mr Michael Healy.

Mr HEALY: Good morning, Sara, and thank you very much for your contribution. It is very important that we hear from you. You indicated earlier that there were other people in the organisation who had troubles or issues. Are you aware if those people went to Fair Work with their grievances?

Ms Bartrum: I believe, from what I was told, that one went but he was on a high salary of over \$100,000 and they said they really could not help him. That is what he said. Basically, I think they both rang Fair Work but neither of them started a process through Fair Work, as far as I know.

Mr HEALY: One of the issues arising out of the discussions and committee meetings that we are having around the state is that there is an intention by some owners—and they refer to this as a business model—in relation to the underpayment of staff and not providing what they are legally obligated to, which can be super or a range of other entitlements. How would you describe the intentions of the owner of this business?

Ms Bartrum: Once he agreed with you what he was going to pay you, he paid it. If he agreed that you were getting \$20 an hour, you got \$20 an hour even if someone else was getting only \$19. If the minimum wage was \$18 you could not really say much, but if you had a case to say 'I am doing this and that extra', then he would. Basically, whatever he agreed to pay you, he would pay you. He would say, 'These are the conditions and this is what I expect'. He was upfront with what he expected when you went there to work. The ones who were there knew that I processed it. If they had any queries they would come and say, 'But we did this'. I would say, 'You didn't put it on the time sheet'. They would say, 'He said he'd fix it up with you'. Then I would go and find out and fix it up. Usually, if he agreed to pay it he would—usually.

Mr HEALY: Basically, you were the person responsible for ensuring that the workers were getting what they were legally entitled to in pay. Obviously this is outside of the discussions where the owner would have—

Ms Bartrum: Whatever discussions they had, I would confirm and then I would make sure that if he had agreed to give them a pay rise they got the pay rise from the date that it was agreed on and everything like that. Basically, I was probably processing it and being a bit of mediator in making sure that what he said he would do got done.

CHAIR: I now invite Mr Nick Dametto, the member for Hinchinbrook, to ask questions.

Mr DAMETTO: Sara, thank you very much for giving us your insight into your dealings and how wage theft has affected you. I have only one question: what would you like to see come out of this inquiry? It seems that recovering the money is probably the most important thing for you. Would it be beneficial, in your case, if Fair Work was able to somehow recover this money and give it back to you? Is that what you would like to see happen?

Ms Bartrum: I would like to see my money paid, but I am not the only one. I think we all get to a stalemate where you do not go any further because you cannot. The industrial relations lady said she only got a result because she could go to the business. I think it is not fair to keep people working there. I think the business model of how it operates—you hear about the big companies like the 7/11s and all that and all the staff getting their back pay and everything like that. But there are a lot of little people who just go to work and want their money and they do not have the resources to help them. I feel that the systems that are there have a good basis, but maybe they need some fine tuning so that they have people on the ground to go and annoy the employers and get the money.

Mr DAMETTO: I guess if there was a next step or a mechanism for Fair Work to actually go and recover those funds without having to go to court, that would be beneficial to the process?

Ms Bartrum: I think it would be better for everybody, to be honest. The courts are chock-a-block as it is.

Mr DAMETTO: That is right. Thank you very much, Sara.

CHAIR: I now call on the member for Maryborough, Mr Bruce Saunders.

Mr SAUNDERS: Sara, thanks for coming forward with your story today. It is very enlightening. By coming forward, you will be able to help people. One of the things that I was most interested in is that no-one from Fair Work actually made a call to or had a physical presence with the employer? No-one from Fair Work went out and inspected the employer?

Ms Bartrum: I believe the lady did ring and she did email. However, as I said, she was not in the state, so she could not really go and see him. The lady from industrial relations was at Mount Gravatt, so she drove down and saw him.

Mr SAUNDERS: There we see the difference. The Queensland representative drove out and saw the employer, whereas the federal ombudsman did not leave the office in Tasmania. Of course, as we all know, you can dodge emails and phone calls, but a physical presence is a bit different.

Ms Bartrum: I do not blame her, by the way. She was doing the job to the best of her ability.

Mr SAUNDERS: No, there is no blame aimed at her.

Ms Bartrum: It is the system and the way it is set up, yes. That is the way I see it.

Mr SAUNDERS: The blame comes back to the federal government for not resourcing the Fair Work Commission sufficiently and also not ensuring that they can do physical inspections in offices. Were any members of the staff in a union?

Ms Bartrum: No, not that I know of.

Mr SAUNDERS: Thanks very much, Sara.

CHAIR: Thank you very much for your time, Sara, and we thank you for coming forward. I am sorry we could not hear you when we were on the Gold Coast.

Ms Bartrum: That is all right. This works just fine, as well.

CHAIR: Thank you for calling in. Sara, we have here a representative of the Queensland Office of Industrial Relations, Craig. I am sure he would be very happy to take back the kind feedback that you provided about the effort that the industrial relations officer at Mount Gravatt made on your behalf. We acknowledge the great persistence and work of our officers in those regional offices. Thank you again, Craig and Sara. All the best. That concludes our public hearing for today. I now close the public hearing.

The committee adjourned at 9.34 am.