

BEFORE THE FAIR WORK COMMISSION

AG2022/5615

Application by Justin Gusset - Application to terminate the *Apple Retail Enterprise Agreement 2014*

WITNESS STATEMENT OF WILDA FONG

I, **Wilda Fong**, make the following statement on the basis of my own knowledge and belief, unless otherwise indicated.

1. I have been employed by Apple at the Brisbane store as a Technical Specialist since April 2022 and worked as a Specialist from October 2018.
2. My role involves troubleshooting issues for customers at the "Genius Bar", and running diagnostic tests on customer devices and checking them in for repairs. I will also greet customers, help them make shopping and Genius Bar appointments. I will also assist in training new staff. As part of my role, I also run repaired or replacement devices to customers and will transact the costs associated with the repair if applicable.
3. I was first employed as a Specialist in the "Product Zone", which is where customers try out, browse and purchase Apple products. My duties in that role included helping customer choose products that suited their needs, demonstrating Apple products and services, and providing some troubleshooting advice to customers. In that role, I also greeted customers and helped them make shopping and Genius Bar appointments. My role also included signing up customers to carrier plans using portals provided by the carriers and helping customers purchase products through financing.
4. When I was hired, Apple never proposed to me, nor was I ever asked, how many hours per day I wanted to work, the times at which when I wanted to work, or when my meal breaks would be. I do not have any guaranteed hours to my knowledge. I annex at **WF-1** a copy of my employment contract.

Changes to regularly worked hours per fortnight

5. Until November 2022, I estimate I was working about 66-70 plus hours per fortnight. I have annexed copies of my payslips for the period between July to October 2022 as **WF-2**.

6. Around November 2022, I noticed that I was receiving rostered hours of around 33-40 hours a fortnight at normally 4 or 5 hours in length. I could normally pick up extra hours from other colleagues however, though sometimes this wasn't possible or there were very limited shifts to go around. For example, for the fortnight between 31 December 2022 to 13 January 2023 I was only able to work 39 hours, which is probably the fewest hours in a fortnight I've received in the last few years. I annex as **WF-3** a copy of my payslip for this period.
7. In January 2023, I attended for work and a colleague of mine, Jed, at the Genius Bar told me that managers, Bayaan and Elise, had explained to them that Apple had been cutting hours because they were going to send more devices to an external repair depot, and that they were no longer rostering for projected sick leave and Jed suggested I have a chat to Elise because she explained it very well.
8. In that same shift, I approached Elise and asked her why hours had been cut. She told me, in effect, the same reason I described in paragraph 6 above.
9. Apple never asked me whether my hours could be cut, nor was I ever told directly that they would be, except when I approached a manager to ask about it after I had started noticing it.
10. Not long after this conversation with Elise, my colleagues Jack and Lisa told me that they were under financial stress after paying rent because of the hour cuts. Justin Gusset, who is full time, had told me that he was donating his shifts to other workers who needed more hours, so I wrote a message in Apple's communications application "Work Jam" (Apple's scheduling application) inviting full time employees to consider donating their hours to part-time employees who were experiencing the cuts.
11. As a result of this message, I have picked up a number of shifts from other colleagues who have donated their hours. From discussing it with me, I also understand other part-time colleagues have picked up shifts this way.
12. Unfortunately, one restriction with this method is that to swap or pick up shifts on Work Jam, an offsite centralised schedule management system must approve any shifts released by other workers, and sometimes this can take up to a week or even longer to

be approved. Consequently, I sometimes won't know until very close to the day if I am going to be working or not.

13. Shortly after I posted the Work Jam message, I brought up with a manager, Reshaad, about the hour cuts issue around mid-January 2023. We had a conversation to the following effect:

1. Reshaad *I don't have any ability to increase your hours. But you could call the store the morning of your shift to ask if it could be extended.*

2. Me: *Really? Do you think you could share this in Hello so the others know?*

3. Reshaad: *I can't do that, but maybe you could spread the word for me?*

14. After this, I told the colleagues I knew were being affected by the cuts to call the store ahead of their shift to pick up extra hours.

15. Sometime after this conversation, on 3 February 2023, I attended a meeting held with store management about a recent survey polling employee's feedback about their workplace. Reshaad briefly asked us what workers felt that Apple was doing right in the store. I recall a reply to the effect that someone liked that the training time we got was really good. I don't recall any further feedback.

16. After this, management asked us what they felt could be improved in the store. I then had an exchange Reshaad, to the following effect:

1. Me: *At the forefront of everyone's mind right now is money and more hours. These hour cuts are really hurting people. I was only rostered 15 hours for a week in the latest roster that dropped.*

2. Reshaad: *If you are doing less than 19 hours per week, you should partner with a manager to boost that up. We don't know how many hours RPO (Resource Planning Office) is rostering people every day, so you'll need partner with a leader if you receive a roster lower than that. We can definitely have a chat about giving you increased hours after this meeting as well.*

17. After the meeting, Reshaad showed me a map of all the hours he was permitted to give to workers, and explained that he wasn't able to give employees back their regular working hours. He did provide me with a few extra shifts to boost my hours for that week by adding shift and extended my five-hour shifts, for a total of about 46 hours that fortnight.

18. I now work about 57-70 hours per fortnight in total. I estimate that around 15 to 20 of those hours are including additional standalone shifts and shift extensions that I pick up from colleagues and from the store. If I wasn't able to pick up extra shifts at Apple there would be no way I could pay my bills without eventually depleting all of my savings.

19. Since my hours were cut in January 2023, I have been stressed about paying my bills, including body corporate fees, rates, utilities and my living expenses. I have to carefully budget in advance, and where I can't meet my bills I need to dip into my savings. Before my hours were cut in January 2023, I rarely, if ever had to touch my savings to make ends meet.

20. Whenever a bill for a large amount (four figures) comes in I find I need to ask or pick up extra hours at Apple. I never know how much I am going to work from week to week. I also freelance as a legal editor for a publisher, and I have had to ask for more work where I can fit it around my Apple shifts to help pay my bills.

21. Additionally, because I need to pick up many more shifts than I used to, I find that I am more regularly working six days in a row. My rostered shifts are usually around 5 hours in length, so I have to work across more days in order to earn enough money to support myself.

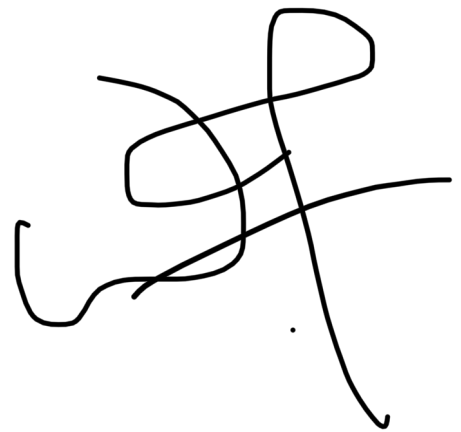
22. Because I am working across so many days, I see my family a lot less than I used to. If I must work six days a week, I will usually have to spend my spare day off, often a day mid-week, catching up on chores instead of seeing them. I live alone, and so does my mother, so in the past I would normally spend Sunday visiting with her at her house where my siblings would gather, and another day or two catching up on chores or freelancing. I would like to spend my spare time with family, but with work being unpredictable I feel I have no choice but to pick up whatever shifts or shift extensions I can to budget better.
23. Before the changes in January 2023, I was able to visit my family weekly on Sundays because when I was first employed, I told Apple that I couldn't work Sundays, Mondays, and Tuesdays so I could see my family and fit in some freelance work, which they observed by rostering me on other days. I lifted Mondays and Tuesdays temporarily around March or April 2020 on Apple's request to fit into their rostering system they were implementing to ensure Covid safety, but I haven't gotten my Tuesdays back since then.
24. Now, because of the hour cuts, I need to pick up whatever shifts I can. This means often working on Sundays or a Monday with a rostered day off mid-week that I use to tend to chores and relaxing from the rest of the work week. I now probably see my family once a fortnight.
25. I could apply for annual leave to take some time off, but I need as many hours as I can. When I apply for annual leave, and also personal leave, I can apply for either 3.8 hours of leave to get the whole day off or for 7.6 hours of leave if I want to be paid for a full day of work.

Pay Increase and Purported Level Change

26. Around July 2022, I received a pay increase from \$28.45 to \$31.85 following a pay review implemented by Apple.
27. At this time, I was pulled aside by my manager Nic Wright and was told that my hourly wage had been bumped up to \$31.85 an hour, and that because I was paid above \$30 per hour I was now a "Level 2". What "Level 2" was, was not clearly explained to me except that I was told that I would no longer receive the penalty rates for Saturdays

worked. Neither Nic nor anyone else from Apple ever asked me if I was okay with being a “Level 2” and losing my penalty rates, however.

28. For some reason however, I have continued to receive my Saturday penalty rates. I have no idea if I am a Level 1 and Nic was wrong to say I was a Level 2, or if I am a Level 2 and I have been getting Saturday penalty rates paid incorrectly. No one ever gave me anything in writing to confirm that my wage would be rising or to confirm what my “Level” is, and I am completely in the dark on how I am meant to be classified under the enterprise agreement or what my entitlements are meant to be in this respect.

A handwritten signature in black ink, appearing to read 'Wilda Fong', with a stylized, cursive script.

Wilda Fong

22 March 2023



Ah, paperwork.

This package contains documents that are time-sensitive and urgent. If you accept Apple's offer, you must submit the following completed materials by the return date listed on your contract.

All documents must be hand signed and scanned, photos cannot be accepted. Please ensure that there is no warping of the text, shadows or bright spots to be acceptable for legal purposes.

If you have any questions contact the Talent Team by e-mail at AURetailContracts@apple.com.

Forms to be signed, scanned and returned

- All pages of your employment contract
- Stock Letter
- Personal Information Notification
- Confidentiality and Assignment of All Rights of Invention Agreement
- Business Conduct Acknowledgement
- Superannuation Standard Choice form - Select checkbox in Section A, Question 1

Superannuation

- Attach your superannuation choice compliance letter if you are making your own choice of superannuation fund

Foreign Nationals (excluding NZ Foreign Nationals)

- Attach a copy of your Australia Work Visa

Note: We suggest making copies of all documents for your records.

Return all your completed and signed forms in one email to:
Australia Talent Team AURetailContracts@apple.com



21 September 2018

Wilda Fong

Dear Wilda,

Congratulations! Apple Pty Limited ('Apple') is pleased to offer you employment with Apple based on the terms set out in this letter and the accompanying Apple Retail Enterprise Agreement 2014 ('EA') which will govern the terms and conditions of your employment.

Apple is delighted to offer you the position of Specialist - Part Time.

You will receive an hourly salary of AUD\$26.00. In addition Apple will allocate an amount equal to 9.50% of your base salary as a superannuation contribution on your behalf, as required to be paid under the Superannuation Guarantee Legislation provisions, by arrangements made with Payroll upon commencement.

Commencement date

Your commencement date is Tuesday the 2nd of October 2018.

Location

You will be based at the Apple Store, Brisbane. However, you may be required to work in other locations or undertake overseas and/or interstate travel in order to carry out your duties.

Background Check

This offer is subject to the successful outcome of the background and reference checks, which are currently being undertaken. If your checks do not come back as satisfactory to Apple, Apple reserves the right to withdraw the offer.

Right to Work

This offer, and your continued employment with Apple is made subject to you being legally entitled to work in Australia and you having current and valid Apple certifications that are required for your role. You must immediately notify Apple should this cease to be the case at any time.

Policies and procedures

Apple's policies and procedures are contained within RetailMe and HRWeb and are subject to change in accordance with the needs of the business. As part of your employment conditions you agree to comply with any policies and procedures that Apple may implement, as varied from time to time by Apple and at our discretion. To the extent that the contents of policies and procedures refer to obligations on Apple, you agree that they are guides only and not contractual terms, conditions or representations on which you rely.

Ownership of intellectual property

It is a condition of your position that Apple will own all the intellectual property rights for everything which you conceive or create, or cause others to conceive or create, in connection with your employment. Examples include but are not limited to copyright, patent rights, and rights to registered designs in relation to anything, whether tangible or intangible. That applies whether or not the thing was conceived or created during normal working hours or using Apple premises or equipment.

You must give Apple all assistance and supply all information, as Apple reasonably requires, to establish ownership or to exploit those things. You must sign all documents and do everything else that Apple reasonably requires to prove or protect its ownership of those things.

If Apple arranges for any photographs to be taken of you during or in connection with your employment, then Apple may use the photographs both during and after the end of your employment, with or without using your name, for any reasonable purpose connected with Apple's operations.

Probation period

Your first six months of employment will be served as a probationary period to establish your suitability for the position. During the probationary period, Apple or you may terminate employment by providing a week's notice. Apple may provide a payment in lieu of the notice period.

Employment records

You acknowledge that personnel information will be gathered about you within the scope of your employment, including as part of the hiring process ("Employee Personal Information"). Your Employee Personal Information is considered private and confidential and is treated in accordance with Apple's Personnel Information Privacy Policy. You understand that you may access, review, make changes to your information and object for legitimate reasons to the processing of your information by contacting hr_privacy_office@group.apple.com. You also acknowledge that Apple may transfer your Employee Personal Information to other Apple entities located outside of Australia at its discretion, including to Apple Inc. in the United States. By signing this agreement, you consent to such transfer, with the understanding that Apple complies with the local data protection laws (if any), the APEC Cross Border Privacy Rules (CBPR) system or any other regime ensuring equivalent or adequate protection, or by appropriate contractual arrangements or binding corporate rules, and that compliance with these programs provides a comparable standard of protection to that as required under the applicable laws and regulations related to the protection of personal data in Australia.

Confidentiality

You must not disclose anyone else's confidential information to Apple and you must not cause Apple to use any confidential information, which belongs to anyone else.

You must use your best endeavours to protect all of Apple's own confidential information and other confidential information held by Apple and you must not use any of that confidential information except for Apple's purposes. Your obligation to protect Apple's confidential information includes but is not limited to protecting and not misusing confidential information, which you have generated yourself as an Apple employee.

Examples of Apple's confidential information include but are not limited to information not generally known outside Apple concerning existing and future products and services, the identity or details of Apple's customers, and information relating to Apple's general business operations (e.g. sales, costs, profits, organisation, customer lists, pricing methods, channels etc.).

Commencement of employment

We would like to ensure that you have everything you need for when you start. To assist us with this aim, we ask that you please return all taxation, payroll and personal information forms back to HR as soon as possible. This will ensure an effective and efficient start. It will also ensure that your payroll information will be processed in the timeliest manner possible. Please see over the page the steps you need to take to ensure your employee information is efficiently sent back to us.

This employment offer is valid until Sunday, 23 September 2018. We must receive your written acceptance of this offer no later than 5:00 p.m. SGT time that day.

Wilda, please accept this offer by signing below. Be sure to retain copies for your personal records. If you have any questions regarding this offer or any of its enclosures, please contact hrhelpline.apac@apple.com.

We look forward to welcoming you to Apple.



Best wishes,



Ollie Clarke
Apple Recruiting, Asia Pacific
On behalf of Apple Pty Limited

I, Wilda Fong, have read this letter and accompanying Apple Retail Enterprise Agreement 2014 and agree to accept the offer made in this letter.



Candidate Signature

WILDA SZE WAI FONG

Printed Full Candidate Name

21 / Sept / 2018
Date Signed

WF-2



BACK



Company Name : Apple Pty Limited
 Pay Period : 04 30.07.22 - 12.08.22
 Employee Name: Fong Wilda
 Apple ID : [REDACTED]
 State : Queensland

ABN : 46002510054 Pay Date : 19.08.2022
 Employee Address : [REDACTED]
 Hourly Rate : 31.85

TAXABLE EARNINGS(1)	PAY PERIOD	UNITS	HOURLY RATE	PTD	YTD
Annual Leave		7.80	31.85	248.43	248.43
Basic Hours		44.03	31.85	1,402.36	6,524.21
Public Holiday Pay 100%		6.87	31.85	218.81	218.81
PH Weekday Worked 150%		6.87	47.78	328.25	328.25
Saturday Worked 125%		16.56	39.81	659.25	2,313.70

TOTAL 2,857.10 9,633.40
 (*) denotes back pay adjustment

OTHER NON-TAXABLE PAYMENTS(2)	PTD	YTD	TAX WITHHELD(3)	PTD	YTD
			Full Income tax	734.00	2,100.00
			PRE-TAX DEDUCTIONS(4)	PTD	YTD
TOTAL	0.00	0.00	TOTAL	734.00	2,100.00

EMPLOYER CONTRIBUTIONS	PTD	YTD	POST TAX DEDUCTIONS(5)	PTD	YTD
[REDACTED]	300.00	1,011.52	ESPP Deduction	285.71	963.34
TOTAL	300.00	1,011.52	TOTAL	285.71	963.34

OTHER INFORMATION	PTD	YTD	BANK ACCOUNT/S	PTD	YTD
Total Taxable Income	2,857.10	9,633.40	[REDACTED]	1,837.39	6,570.06

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Company Name : Apple Pty Limited
 Pay Period : 05 13.08.22 - 26.08.22
 Employee Name: Fong Wilda
 Apple ID : [REDACTED]
 State : Queensland

ABN : 46002510054 Pay Date : 02.09.2022
 Employee Address : [REDACTED]
 Hourly Rate : 31.85

TAXABLE EARNINGS(1)	PAY PERIOD	UNITS	HOURLY RATE	PTD	YTD
Annual Leave					248.43
Basic Hours		52.50	31.85	1,672.12	8,196.33
Public Holiday Pay 100%					218.81
PH Weekday Worked 150%					328.25
Saturday Worked 125%		16.08	39.81	640.14	2,953.84

TOTAL 2,312.26 11,945.66
 (*) denotes back pay adjustment

OTHER NON-TAXABLE PAYMENTS(2)	PTD	YTD	TAX WITHHELD(3)	PTD	YTD
			Full Income tax	490.00	2,590.00
			PRE-TAX DEDUCTIONS(4)	PTD	YTD
TOTAL	0.00	0.00	TOTAL	490.00	2,590.00

EMPLOYER CONTRIBUTIONS	PTD	YTD	POST TAX DEDUCTIONS(5)	PTD	YTD
[REDACTED]	242.79	1,254.31	ESPP Deduction	231.23	1,194.57
TOTAL	242.79	1,254.31	TOTAL	231.23	1,194.57

OTHER INFORMATION	PTD	YTD	BANK ACCOUNT/S	PTD	YTD
Total Taxable Income	2,312.26	11,945.66	[REDACTED]	1,591.03	8,161.09

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NET PAY(1+2-3-4-5) 1,591.03 8,161.09¹²



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Company Name : Apple Pty Limited
 Pay Period : 06 27.08.22 - 09.09.22
 Employee Name: Fong Wilda
 Apple ID : [REDACTED]
 State : Queensland

ABN : 46002510054 Pay Date : 16.09.2022
 Employee Address : [REDACTED]
 Hourly Rate : 31.85

TAXABLE EARNINGS(1)	PAY PERIOD	UNITS	HOURLY RATE	PTD	YTD
Annual Leave					248.43
Basic Hours		57.72	31.85	1,838.38	10,034.71
Public Holiday Pay 100%					218.81
PH Weekday Worked 150%					328.25
Saturday Worked 125%		12.75	39.81	507.58	3,461.42

TOTAL 2,345.96 14,291.62
 (*) denotes back pay adjustment

OTHER NON-TAXABLE PAYMENTS(2)	PTD	YTD	TAX WITHHELD(3) Full Income tax	PTD	YTD
				502.00	3,092.00
			PRE-TAX DEDUCTIONS(4)	PTD	YTD
TOTAL	0.00	0.00	TOTAL	502.00	3,092.00

EMPLOYER CONTRIBUTIONS	PTD	YTD	POST TAX DEDUCTIONS(5) ESPP Deduction	PTD	YTD
[REDACTED]	246.33	1,500.64		234.60	1,429.17
TOTAL	246.33	1,500.64	TOTAL	234.60	1,429.17

OTHER INFORMATION	PTD	YTD	BANK ACCOUNT/S	PTD	YTD
Total Taxable Income	2,345.96	14,291.62	[REDACTED]	1,609.36	9,770.45

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NET PAY(1+2-3-4-5) 1,609.36 9,770.45
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Company Name : Apple Pty Limited
 Pay Period : 07 10.09.22 - 23.09.22
 Employee Name: Fong Wilda
 Apple ID : [REDACTED]
 State : Queensland

ABN : 46002510054 Pay Date : 30.09.2022
 Employee Address : [REDACTED]
 Hourly Rate : 31.85

TAXABLE EARNINGS(1)	PAY PERIOD	UNITS	HOURLY RATE	PTD	YTD
Annual Leave		7.60	31.85	242.06	490.49
Basic Hours		41.15	31.85	1,310.64	11,345.35
Public Holiday Pay 100%		4.00	31.85	127.40	346.21
PH Weekday Worked 150%					328.25
Saturday Worked 125%		16.17	39.81	643.73	4,105.15

TOTAL 2,323.83 16,615.45
 (*) denotes back pay adjustment

OTHER NON-TAXABLE PAYMENTS(2)	PTD	YTD	TAX WITHHELD(3)	PTD	YTD
			Full Income tax	494.00	3,586.00

	PTD	YTD	PRE-TAX DEDUCTIONS(4)	PTD	YTD
TOTAL	0.00	0.00	TOTAL	494.00	3,586.00

EMPLOYER CONTRIBUTIONS	PTD	YTD	POST TAX DEDUCTIONS(5)	PTD	YTD
[REDACTED]	244.00	1,744.64	ESPP Deduction	232.38	1,661.55
TOTAL	244.00	1,744.64	TOTAL	232.38	1,661.55

OTHER INFORMATION	PTD	YTD	BANK ACCOUNT/S	PTD	YTD
Total Taxable Income	2,323.83	16,615.45	[REDACTED]	1,597.45	11,367.90

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NET PAY(1+2-3-4-5) 1,597.45 11,367.90¹⁴



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Company Name : Apple Pty Limited
 Pay Period : 08 24.09.22 - 07.10.22
 Employee Name: Fong Wilda
 Apple ID : [REDACTED]
 State : Queensland

ABN : 46002510054 Pay Date : 14.10.2022
 Employee Address : [REDACTED]
 Hourly Rate : 31.85

TAXABLE EARNINGS(1)	PAY PERIOD	UNITS	HOURLY RATE	PTD	YTD
Annual Leave		7.60	31.85	242.06	732.55
Basic Hours		57.76	31.85	1,839.66	13,185.01
Public Holiday Pay 100%					346.21
PH Weekday Worked 150%					328.25
Saturday Worked 125%		5.08	39.81	202.23	4,307.38

TOTAL 2,283.95 18,899.40
 (*) denotes back pay adjustment

OTHER NON-TAXABLE PAYMENTS(2)	PTD	YTD	TAX WITHHELD(3) Full Income tax	PTD	YTD
				478.00	4,064.00
			PRE-TAX DEDUCTIONS(4)	PTD	YTD
TOTAL	0.00	0.00	TOTAL	478.00	4,064.00

EMPLOYER CONTRIBUTIONS	PTD	YTD	POST TAX DEDUCTIONS(5) ESPP Deduction	PTD	YTD
[REDACTED]	239.81	1,984.45		228.40	1,889.95
TOTAL	239.81	1,984.45	TOTAL	228.40	1,889.95

OTHER INFORMATION	PTD	YTD	BANK ACCOUNT/S	PTD	YTD
Total Taxable Income	2,283.95	18,899.40	[REDACTED]	1,577.55	12,945.45

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NET PAY(1+2-3-4-5) 1,577.55 12,945.45
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BACK

Company Name : Apple Pty Limited
 Pay Period : 15 31.12.22 - 13.01.23
 Employee Name: Fong Wilda
 Apple ID : [REDACTED]
 State : Queensland

ABN : 46002510054 Pay Date : 20.01.2023
 Employee Address : [REDACTED]
 Hourly Rate : 31.85

TAXABLE EARNINGS(1)	PAY PERIOD	UNITS	HOURLY RATE	PTD	YTD
Annual Leave					2,669.03
Sick/Carers Leave					1,452.36
BD Spot Bonus GUP					175.00
Basic Hours		33.66	31.85	1,072.08	21,513.17
Public Holiday Pay 100%					547.50
PH Weekday Worked 150%					630.22
Sunday Worked 150%					151.46
Saturday Worked 125%		5.02	39.81	199.85	5,234.95
BD Spot Bonus GUT					88.00
Payroll Adjustment					31.85-
Dividend Equivalent					52.44

TOTAL 1,271.93 32,482.28
 (*) denotes back pay adjustment

OTHER NON-TAXABLE PAYMENTS(2)	PTD	YTD	TAX WITHHELD(3)	PTD	YTD
			Full Income tax	130.00	6,348.00
			PRE-TAX DEDUCTIONS(4)	PTD	YTD
TOTAL	0.00	0.00	TOTAL	130.00	6,348.00

EMPLOYER CONTRIBUTIONS	PTD	YTD	POST TAX DEDUCTIONS(5)	PTD	YTD
[REDACTED]	133.55	3,410.65	ESPP Deduction	127.19	3,216.69
TOTAL	133.55	3,410.65	TOTAL	127.19	3,216.69

OTHER INFORMATION	PTD	YTD	BANK ACCOUNT/S	PTD	YTD
Total Taxable Income	1,271.93	32,482.28	[REDACTED]	1,014.74	22,917.59

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NET PAY(1+2-3-4-5) 1,014.74 22,917.59