

# Statement

No. AG2022/5615

Fair Work Commission

## **Justin Gusset**

Applicant

## **Apple Pty Limited**

Employer

Statement of: Monica Gyenge

Address: c/o Level 3/20 Martin Place Sydney NSW 2000

Occupation: Store Leader

Date: 8 June 2023

I, Monica Gyenge, say:

1. I am employed by Apple Pty Ltd (**Apple**) as a Store Leader of the Apple Broadway store. I have worked at Apple for over 10 years.
2. In my position, I have overall responsibility for the Apple Broadway store on administrative and operational matters, financial and employee performance.
3. At the Broadway store, there are two Senior Managers, Ben Tatchell, and Jenna Mishica, who is currently working in another position temporarily.
4. Before working at Apple, I worked at a large Australian clothing retailer, Country Road, for almost 9 years as a cluster and regional manager.
5. I have been provided with the statement of Dani Barley dated 23 March 2023 (**Barley Statement**), which I have read.
6. I do not respond to other aspects of the Barley Statement, I am not agreeing or accepting what is said.

## **Apple Broadway**

7. Apple's Broadway store is located in the Broadway Shopping Centre, close by to the Sydney CBD.
8. The Broadway store opening hours are from:

Filed on behalf of Apple Pty Limited

Prepared by Kerry O'Brien

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- (a) 10 am until 7 pm Monday, Tuesday, Wednesday and Friday;
  - (b) 10 am until 9 pm Thursday;
  - (c) 9 am until 6 pm Saturday; and
  - (d) 10 am until 6 pm Sunday.
9. Employees may be scheduled 2 hours before opening time, from 7 am on Saturday and 8 am on every other date, to complete repairs, reset visual merchandising, accept stock deliveries and set up the store for trade. Employees may also be scheduled 1 hour after closing.
  10. There are around 110 employees at the Broadway store. From this number there are 55 full-time employees, and 55 part-time employees. I am also aware that there are 10 Apple Broadway employees on flexible working arrangements at the moment.

### **Response to Barley Statement**

11. Dani started with us at Broadway recently, in August 2022. Dani is employed as a Specialist.
12. Dani is paid \$30 as an hourly rate of pay. Dani is employed on a full-time basis.
13. In response to paragraph 3 of the Barley Statement, I generally agree with her description of the duties of a Specialist. I do not agree that a Specialist is to “pitch” Apple services, because this does not take into account what services any personal or business customer may actually need, nor would it educate the customer on the range of services the customer could chose from.

### Training for new employees

14. In response to paragraph 4 of the Barley Statement, when new employees including Dani are brought on as Apple employees, they are trained to use and understand Apple’s scheduling system. In particular, employees are informed of the requirement to enter availability and unavailability, and preferences for shift times, at several points along their recruitment journey. This was the case with Dani.
15. I am involved in recruitment at Apple Broadway for retail employees and was involved in Dani’s recruitment as a Specialist.
16. During recruitment, there are a number of checkpoints on a candidate’s journey into Apple where our scheduling practices are made very clear. Apple has a unique, global and centralised scheduling system and so early awareness of how to use this system is part of Apple’s training to employees about how schedules are created.
17. When an external candidate applies for any retail position at Apple, they will attend three interviews. Apple’s scheduling system is raised in the first or second interview, or both. In addition, the scheduling system is raised in the final ‘sign off’ interview, which I usually conduct. I conducted this with Dani.

18. When we offer a candidate a role, availability is also discussed with the candidate.
19. Then, in the first days of a person's employment at Apple, they will spend some time with a People Operations Planner to set up their availability.
20. All new team members participate in training called "Market Core Training" for 2 days with other new starters across the market. Then, new team members spend 8 days in store where further training is carried out in a mix of classroom style and experiential hands on learning covering all aspects of their role. New employees are supported by a facilitator or mentor each day.

#### Scheduling at Apple

21. In response to paragraph 4 of the Barley Statement, no employee is required to be available seven days a week.
22. Dani is full-time. When setting up their usual roster availability, a full-time employee can enter two weekdays as preferred days off in the system and enter preferred shift times in addition to these days. If the employee has particular personal circumstances that require a specific availability, employees can speak with a Manger to have this entered into the system and approved.
23. In response to paragraph 4 and 7 of the Barley Statement, Dani states that it is difficult to get time off work.
24. In terms of Dani's attendance at work, Dani often accesses a form of time off work known as requested time off or 'RTOs'. In the period from 1 August 2022 to 2 March 2023, Dani has taken 37 RTO days.
25. In practice, this means that after the schedule has been published (which happens 2 weeks in advance), Dani has applied to take the day off and release the shift or Dani may have applied for an RTO in advance of the schedule being published. The number above (37) represents approved RTO days; additional applications for an RTO may have been made that were not able to be approved.
26. This is a responsive way store management provides time off work that Dani requests.
27. When I compare this number in this period to other employees at Apple Broadway, this is an excessive number of RTO days. 37 RTO days is above any other employee at the Broadway store. This is not a criticism of Dani; but this comparison shows that Apple and the management at Apple Broadway have been extremely flexible with Dani to ensure that it is not difficult to get time off from work where requested.
28. It is store leadership at Apple Broadway, not the centralised People Planning Operations team as Dani suggests in paragraph 18 of the Barley Statement, that approve requests for days off once the roster is published where these request occur soon before the day of the shift.

29. In addition to RTOs, in the same period, there are over 53 instances of unplanned leave. All Apple employees are entitled to access paid and unpaid personal (sick) leave. Apple asks employees to provide some form of medical certification when accessing this leave. I understand from conversations with our People Experience Manager, Emma Erikson, that Dani has not provided any medical certification or evidence to substantiate her personal leave. Despite this, Apple has approved the personal leave.
30. Dani is currently on a short term salary continuance from March 2023 in anticipation of a surgery in May. This was approved by Apple following a conversation with Dani about her personal circumstances and information about the surgery provided by Dani's doctor.
31. Where Dani says in paragraph 8 of the Barley Statement that she has not had shift swaps approved and has been at risk of missing a specialist appointment, I am not aware of any instance where this has occurred. I would be happy to work with Dani to address this issue.
32. Dani also says that she is sometimes scheduled less than her full-time hours and additional shifts must be found for her. On my review of this, I cannot identify a week in which Dani was not scheduled to work her full-time hours before leave or requests to release shifts occurred. In paragraph 19 of the Barley Statement, I do not understand Dani's reference to working in the week of 25 to 31 March 2023 as Dani was on a short term salary continuance in that month.

Offer to Dani to make flexible working arrangement request

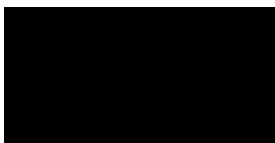
33. In response to paragraphs 5 to 7, 9, 10, 17, 21 and 22 of the Barley Statement, I am aware of Dani's health issues and her discussions with Emma Erikson. I was not fully aware of the medications Dani takes that she speaks about in the Barley Statement.
34. I am aware that the management at Apple Broadway and Apple's People team have spoken with Dani for most of her employment about how Apple can support Dani with her attendance, and wellbeing at work. As Dani describes in the Barley Statement, Dani sometimes uses a chair and sometimes uses a cane or crutches. During a shift, Dani will sometimes request to move from the front of the store to the back of the store, or off the floor, or to take time away to access her medications or when the store becomes busy. These conversations have been led by me, Ben and Emma in an effort to try and support Dani. I have also had a number of conversations with Dani about issues in her personal life, which are not appropriate to share in this statement, but I have taken all steps available to me to ensure that Dani feels supported at work given she has a lot on her plate outside of work.
35. In response to paragraphs 21 and 22 of the Barley Statement, we have been seeking clear medical information from Dani for some time. This is because, as a matter of policy and practice, Apple seeks guidance from an employee's treating practitioners about any adjustments that may be required for a person with health issues or disability to ensure

that Apple is properly and safely accommodating them at work. Apple does not need personal or health information; it needs medical information in the form of required and recommended adjustments to a person's position. To date, despite requests for this guidance, we have not received the necessary information and detail from Dani.

36. I am aware that for the past few months, Apple (through our People Experience Manager, Emma Erikson) proactively offered to Dani that she should consider making a flexible working arrangement request.
37. Dani speaks about the difficulty, and cost, of accessing specialists as a barrier to progressing a flexible working arrangement. Apple does not need medical information to be sourced from or validated by a specialist, and medical information does not necessarily need to be fresh or new medical information; information from a general practitioner and existing medical information based on prior reports or medical certificates would also be appropriate in most circumstances. I have not heard from Dani that she feels the cost of a specialist appointment prevents her proceeding with a flexible working arrangements.
38. There are several examples of flexible working arrangements in the Broadway store. One employee has vision problems which means that the employee cannot travel at night and so their schedule recognises this. Another employee requires specific job tasks and specific shift lengths.
39. Despite Apple's proactive position, asking Dani to put in a flexible working arrangement, Dani has not completed the form. I would be happy to assist Dani with this form.
40. I know from my employment that employees are generally entitled to request a flexible working arrangement after 12 months of employment under employment legislation, and Apple's policies. Dani has worked with Apple for a short time and is yet to hit this milestone. Even so, Apple has offered to consider a flexible working arrangement with Dani before 12 months of service. In my years as a Manager at Apple, this is exactly the type of support I know Apple offers to employees so that they feel safe and happy at work.
41. In response to paragraph 21 of the Barley Statement, it is true that flexible working arrangement requests are not guaranteed, nor automatically approved. This is because the nature of the request must be considered against Apple's operational requirements, and together with accurate and relevant medical information about what adjustments are required to know if they are to be made available. However, in light of Apple's proactive position and the familiarity the Apple Broadway team has in accommodating employees' needs at work through flexible working arrangements, I cannot envisage a situation where Apple cannot approve some form of flexible working arrangement for Dani to ensure she is supported at work.

Hours of work at Broadway

42. Generally, employees are scheduled with consistent hours of work at Broadway. By that, I mean that start and finish times are predictable for most employees. Employees receive visibility of their schedules in advance so that they are aware of their start and finish times well before the shift starts, in case there are changes to the usual pattern of work an employee may have.
43. In paragraph 11 and 12 of the Barley Statement, Dani describes "*back to back shifts*". It would be unusual for employees to work a late night on Thursday and then be scheduled to work first thing on Friday.
44. Apple's scheduling system has a rule that employees are not to be rostered without a 12 hour break and this rule is part of the scheduling framework when new rosters are drafted and published. This means that employee would be highly unlikely to have finished work at 9.30 pm and started another shift at 8 am, unless the employee has elected or agreed to take up another shift which has caused this to happen.
45. I can see from my review of the summary of Dani's hours that there is only one instance where Dani worked a Thursday night shift (ending at 9 pm) and, after an adjustment to the schedule, began at 8 am the next day. This was over Thursday 3 November 2022 and Friday 4 November 2022. The schedule as published had the Friday shift beginning at 11.30 am but this was adjusted. This is the only time that this combination of shifts has been scheduled for Dani. I am not sure why this particular shift was adjusted but am aware that Dani often requests adjustments in her shifts to start or finish later to ensure she can visit a doctor or a pharmacist, and these requests are accommodated.
46. Although I have had conversations with Dani about her hours of work, and I am aware that Ben Tatchell and Emma Erikson have had further conversations with Dani, I was not aware until reading the Barley Statement that she is required to wake up so early to take medication.
47. I am aware that some team members live further away from the store than others. This is a personal matter for each employee as to where they live. Colleagues live in Campbelltown or Castle Hill, which are much further away than Parramatta or Marrickville; recently, a new team member who has moved to Sydney from Brisbane talked to me about his current living arrangements with family in Liverpool, and that this requires him to travel 2 hours each way but that this is short term until he moves closer to work.
48. Where an employee has to travel some distance home, and the published end time of a shift would cause them any difficulty, employees can raise this with their manager. I cannot know of issues or concerns like this unless they are raised with me. Although I can assist employees with their scheduling, I cannot assist employees with their living arrangements.



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Signature of witness