

From: [Stephen Crawford](#)
To: [AMOD](#)
Cc: [Zach Duncalfe](#)
Subject: Matters AM2014/196 and AM2014/197 - Casual case - Horticulture Award - AWU evidence
Date: Friday, 22 December 2017 4:05:31 PM
Attachments: [image001.png](#)
[image002.png](#)
[AWU - Ballin, Keith statement.pdf](#)
[AWU - Cowdrey, Ron statement.pdf](#)
[AWU - McNeill, Sam statement.pdf](#)
[AWU - Rindo, Serge statement.pdf](#)

Dear Award Modernisation Team,

Pursuant to the Full Bench's directions issued on 24 November 2017, please find attached the following evidence filed on behalf of the AWU in relation to its ongoing claim regarding overtime entitlements for casual employees under the *Horticulture Award 2010*:

- Statement of Keith Ballin;
- Statement of Ron Cowdrey;
- Statement of Sam McNeill; and
- Statement of Serge Rindo.

Regards,

Stephen Crawford
Principal



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IN THE FAIR WORK COMMISSION

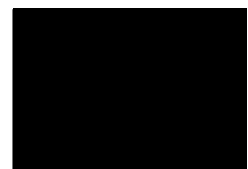
4 yearly review of modern awards – Casual and Part-time Employment Case

Matters AM2014/96 and AM2014/197

WITNESS STATEMENT OF KEITH BALLIN

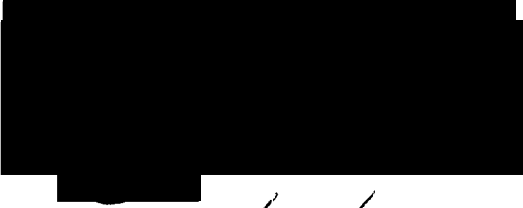
I, Keith Lawrence Ballin, of 1 Maryborough Street, in the State of Queensland, Central District Secretary of The Australian Workers' Union, Queensland Branch STATE as follows:

1. I work for The Australian Workers' Union, Queensland Branch and my office is situated at 1 Maryborough Street Bundaberg 4670. I have worked as an official for the AWU for 29 years in the State of Queensland.
2. I have visited a number of sites within my Central District where the Horticultural Sector is one of the major industries.
3. As a District Secretary, I look after the Area from Clairview to the North of Rockhampton, West to Emerald and to the South to Gympie and within that area we have a number of Horticultural Sites.
4. During this time, I have noticed and discussed at length with employers the working hours for casual employees.
5. I have spoken to workers who have worked between the hours of 6am to 6pm on a regular daily basis and I have also found that these hours are also worked on a Saturday and on occasions on a Sunday.
6. The sites I have visited throughout my District include a farm called Abbotsleigh where citrus is farmed and there are other farms in the Upper Burnett Region called Iron Bark Citrus as well as The Golden Mile Orchard. Also, Redlea Citrus is another and as far out as Emerald there are farms there called 2PH.
7. These sites work 6 days per week and generally around 10 hours per day. It is unusual for work to be performed outside of 6am to 6pm but this would happen on some occasions in Summer. Sundays are occasionally worked during harvest.
8. Having overtime payable when a casual employee works more than 10 hours in a day, outside of 6am to 6pm or over 228 hours in a 6-week period is workable for the industry.
9. The overtime rate is only time and a half in the Horticulture Award for Permanent employees aside from Sundays so the overtime rate is already lower than most other awards.
10. If the weekly hours of work are averaged over a period of 8 weeks for casual employees as currently proposed by the Commission, I think that the overtime payments made to casual employees would be minimal.



11. A significant number of casual employees in my District are paid at piecework rates instead of by the hour and won't receive overtime entitlements anyway.

SIGNED:

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DATE: 22/12/17

Fair Work Act 2009
FAIR WORK COMMISSION

4 yearly review of modern awards – Casual and Part-time Employment
Horticulture Award 2010

STATEMENT OF RON COWDREY

I, **RON COWDREY**, [REDACTED],
STATE as follows:

Background

1. I work as an Organiser for The Australian Workers' Union, New South Wales Branch and am based at Griffith.
2. I service and recruit members in the South West Region of New South Wales including at several horticultural farms. These are mainly citrus farms.

Hours of work for casual employees

3. Hours of work in the horticultural industry generally follow daylight hours. I haven't come across much work being performed after dark.
4. This means the working hours fluctuate with the seasons and daylight saving.
5. I am aware the Commission is considering an averaging period for casual weekly ordinary hours of work.
6. If hours of work are averaged over a period of 4 weeks, I think casual employees will regularly work in excess of 152 hours in 4 weeks and would be entitled to overtime rates. I consider this is fair and reasonable and the industry could cope with the financial cost of this.
7. This is particularly the case given around 60% of workers in my region are paid at piecework rates and won't receive overtime entitlements.
8. If casual ordinary hours are averaged over a 6-week period, I think the overtime payments would be minimal. Most workers would not work more than 228 hours at a particular farm in a 6-week period.
9. If casual ordinary hours are averaged over an 8-week period, I don't think any overtime payments would be made. It would be highly unlikely that an

employee would work more than 304 hours at a particular farm in an 8-week period.

SIGNED:

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22 December 2017

Fair Work Act 2009
FAIR WORK COMMISSION

4 yearly review of modern awards – Casual and Part-time Employment
Horticulture Award 2010

STATEMENT OF SAM McNEILL

I, **SAM McNEILL**, c/- [REDACTED]
STATE as follows:

Background

1. I have worked as an Organiser with The Australian Workers' Union, Victorian Branch (AWU) for the last 3 years.
2. I am based in Gippsland and have attended hundreds of horticultural farms through my role with the AWU.

Hours of work for casual employees

3. Most of the farms in my region operate throughout the year and pay hourly rates as opposed to piecework rates.
4. Casual employees at the overwhelming majority of farms I have attended work between the hours of 6am and 6pm.
5. I would say average daily working hours for casual employees at farms I have attended would be 10 per day.
6. Tomato farms generally operate from Monday to Friday but some of the herb farms I have attended work on Saturdays too.
7. I have attended asparagus farms and employees at these farms do work during the night. I have tried to get the 15% shift work loading paid to casual employees at asparagus farms but have not been successful so far.
8. My view is an averaging period for casual weekly ordinary hours of work of 4 weeks is sustainable and reasonable for the horticulture industry.
9. This will lead to some level of overtime being paid to many casual employees but the rate under the Horticulture Award for permanent workers is generally only time and a half so the cost to employers will not be as great as in other

industries. Employers will also structure their operations to manage overtime expenses – like they do in any other industry.

10. The industry is competitive but there are also some very profitable farms operating that can easily afford to pay more to their workers.
11. In recent years, I have noticed a significant increase in the use of casual employees in the horticulture industry instead of permanent workers. This has occurred because the casual conditions in the award are so inferior that employers can achieve significant cost savings from engaging casual employees to work regular hours instead of using permanent workers.
12. These savings arise from not paying overtime or weekend rates to casual employees and not even paying shift work rates.
13. I have become increasingly demoralised with working conditions in the horticulture industry and it is important for the Commission to take action to improve the conditions.

SAM McNEILL

22 December 2017

Fair Work Act 2009
FAIR WORK COMMISSION

4 yearly review of modern awards – Casual and Part-time Employment
Horticulture Award 2010

STATEMENT OF SERGE RINDO

I, **SERGE RINDO**, c/- [REDACTED] in the State of New South Wales, STATE as follows:

Background

1. I work as an Organiser for The Australian Workers' Union, New South Wales Branch and am based at Tamworth.
2. I assist members in the Northern Regions of New South Wales.
3. Part of my roles includes assisting members at Costa's Guyra glasshouses.

Hours of work for casual employees

4. There are three separate Costa glasshouses at Guyra.
5. I requested information from AWU Delegates about working hours for casuals in the glasshouse and received the information below.
6. The average working hours for casual employees across the three glasshouses are around 36 per week.
7. Work is generally performed between the hours of 6am and 6:30pm at the three glasshouses. Casual employees start at all different times depending on how busy it is but not before 6am.
8. There is an enterprise agreement for these glasshouses. The agreement is only very marginally above the Horticulture Award and the Horticulture Award will be critical in terms of determining conditions at the glasshouses in future enterprise agreements.

SERGE RINDO

22 December 2017