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2011 LIV Community Lawyer of the Year Award | 2013 Tim McCoy Award | 2014 HESTA Social Impact Award
2016 National Disability Award - Excellence in Justice and Rights Protection | 2018 LIV Awards – Access to Justice

15 October 2018

By Email: chambers.ross.j@fwc.gov.au

The Honourable Justice Iain Ross
President
Fair Work Commission
GPO Box 1994
MELBOURNE VIC 3001

Dear President Ross

**Re: Supported Employment Services Award 2010
Four Yearly Review of Modern Awards
Matter No. AM2014/286**

We refer to the above matter, the hearing set down for 5 and 6 November 2018 and our requests for an adjournment made on 11 September 2018 and 2 October 2018.

In this review, the Full Bench issued a statement on 16 April 2018. The Bench then conducted a report back mention on 29 May 2018 during which they canvassed the views of the parties about whether there was a willingness to participate in a conferral process to consider the provisional views contained in the Bench's April statement. The position adopted by the AED, as well as others, was that the Full Bench should proceed to make findings and determine the matter. In response to the views conveyed on 29 May 2018, the Full Bench released a further statement on 11 September 2018: [2018] FWCFB 5712.

In this further statement, the Bench stated at [5] that:

“Having regard to the attitude taken by United Voice, the HSU and the AED Legal Centre (which, apart from Our Voice Australia, are the interested parties seeking to represent the interests of supported employees in the conduct of the review), we do not consider that the conferral process envisaged in the 16 April 2018 Statement is likely to achieve the desired objective of a “broad consensus about the design of the new wage assessment mechanism”.

The Bench programmed further submissions and hearing dates. The hearing dates were 5 and 6 November 2018. The AED promptly wrote to VP Hatcher's chambers to advise that 6 November 2018 is a Public Holiday in Victoria. An adjournment was sought. This application was rejected on the basis that the matter is being heard in Sydney.

Whilst it is acknowledged that the Full Bench is sitting in Sydney, the review also concerns parties who are based in Victoria. The AED is one such party.

The Bench has recognised that the AED is one of the interested parties seeking to represent the interests of supported employees in the conduct of the review. During the hearing of the matter, the AED had carriage of the application to vary the Award to remove the wage assessment tools that are the subject of the Bench's first statement. The AED Legal Centre is a very small organisation, with limited resources. The writer of this correspondence has carriage of this matter for the AED Legal Centre and is the only one who is able to do so. There is no one else.

In rejecting the application for an adjournment, it was suggested that the Melbourne based parties could make their submissions on 5 November 2018. Unfortunately, this will not in the circumstances be of assistance to AED. Accordingly, AED Legal Centre again wrote to chambers to explain why in the circumstances this is so.

As mentioned, the writer has sole carriage of this matter for the AED. She has a long-standing prior commitment on 5 November 2018. It is a family event whereby her niece, Cassie Wilson, the daughter of her brother Andrew Wilson, is being married in Dixons Creek, some distance from the CBD. Further, the writer had also booked accommodation in January of this year to stay in Dixons Creek for two nights, to account for travel time and in order to attend a family reunion with people from interstate and overseas. The event was organised many months ago. Whilst the wedding falls on a working day, it was planned on the basis that it fell between a Sunday and Melbourne Cup Day. It was organised well before and without knowledge of the hearing date programmed by the Full Bench. The result is that the writer is unavailable on 5 November 2018.


In correspondence dated 15 October 2018, VP Hatcher's Associate wrote to the parties and stated that his Honour is on leave until 22 October 2018. The Associate states she has conferred with the other members of the Bench, namely DP Booth and Commissioner Cambridge, and that they confirmed that the matter will proceed on 5 and 6 November 2018 and that the Bench would look favourably on a request from a Melbourne based party to make submissions on 5 November 2018. For the reasons given, this will not avail AED Legal Centre.

In the absence of VP Hatcher, the AED seeks an adjournment of the hearing dates. No party has indicated that they will be prejudiced by an adjournment of those dates.

We attach copies of correspondence sent to Vice President Hatcher for your reference.

If you have any queries in relation to the above, please email us at noni.lord@aed.org.au or leave a voicemail message on (03) 9639 4333 with some convenient times for us to return your call.

Yours sincerely



Kairsty Wilson
Principal Legal Practitioner
AED Legal Centre

Encl. (2)

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11 September 2018

By Email: chambers.hatcher.vp@fwc.gov.au

Vice President Hatcher
Fair Work Commission
Level 10, Tower Terrace
80 William Street
EAST SYDNEY NSW 2011

Dear Vice President Hatcher

**Re: Supported Employment Services Award 2010
Four yearly review of modern awards
Matter No. AM2014/286**

We refer to the above, the Statement issued by the Full Bench and the Notice of Listing of today's date.

We advise that 6 November 2018 is a public holiday in Victoria, that being Melbourne Cup. We therefore propose that the hearing date be deferred to at least one (1) week later, and thereby scheduled on or after 12 November 2018.

In these circumstances, we would also request that the filing of the submissions be pushed back to at least 26 October 2018 to preserve the two (2) week period between the filing of the submissions and the hearing date.

If you have any queries in relation to the above, please email us at noni.lord@aed.org.au or leave a voicemail message on (03) 9639 4333 with some convenient times for us to return your call.

Yours sincerely



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2 October 2018

By Email: chambers.hatcher.vp@fwc.gov.au

Vice President Hatcher
Fair Work Commission
Level 10, Tower Terrace
80 William Street
EAST SYDNEY NSW 2011

Dear Vice President Hatcher

**Re: Supported Employment Services Award 2010
Four Yearly Review of Modern Awards
Matter No. AM2014/286**

We refer to the above matter listed for Hearing on 5 and 6 November 2018, our correspondence dated 11 September 2018 as well as your Associate, Ms Ammy Lewis' reply dated Friday, 21 September at 4:19pm received the following Monday, 24 September 2018.

As we considered that the Hearing dates falling upon a Public Holiday in Victoria was sufficient reason to request an adjournment of the matter in our correspondence dated 11 September 2018, personal reasons for adjourning the matter were not provided. However as this is not accepted, the Writer's personal reasons for requesting an adjournment are provided below. Whilst it is acknowledged that the Full Bench is sitting in Sydney, this is a matter that affects employees Nationwide and as such involves parties from all over Australia. As one of the Hearing dates falls upon a public holiday in Victoria, it has an impact on these employees and their representatives by not providing an opportunity for representation on Tuesday, 6 November. On these grounds, we ask again that the Hearing be adjourned to a mutually accommodating date for everyone involved in the matter.

As referred to above, we advise that the Writer, who has sole carriage of this matter, has a prior commitment on Monday, 5 November 2018. This is a family event whereby her niece is being married in Dixons Creek, some distance from the CBD. This event has obviously been organized many months ago. A copy of the invitation is attached. You will note that personal details have been redacted from the invitation however can be provided to the Commission on request, but not for publication on the website.

With family and friends coming from interstate and overseas, the decision was made for the event to coincide with a family reunion. As such, accommodation was booked in January of this year for two nights stay in Dixons Creek, it being too far to comfortably drive there and back in the one day. Copies of the bookings and confirmation of those booking are attached. As stated above personal details have been redacted.

Although the wedding falls on Monday, 5 November 2018, a working day as the following day is Melbourne Cup Day, people take leave on the Monday to have an extended long weekend. This also coincides with many schools' granting the Monday before Cup Day be a curriculum day.


AED's office is small with limited resources, and as the Writer who has been involved in the fight for equitable wages for supported employees since its' conception in 2002 will be unavailable, there is no one else in our office able to instruct Counsel at the Hearing as listed.

We therefore again request consideration for the Full Bench to adjourn the hearing date for at least one (1) week, and thereby it be scheduled on or after 12 November 2018.

In these circumstances, we would also request that the filing of the submissions be pushed back to 26 October 2018 at the earliest to preserve the two (2) week period between the filing of the submissions and the new proposed hearing date.

If you have any queries in relation to the above, please email us at noni.lord@aed.org.au or leave a voicemail message on (03) 9639 4333 with some convenient times for us to return your call.

Yours sincerely



Kairsty Wilson
Principal Legal Practitioner
AED Legal Centre

Encl. (4)