

FAIR WORK COMMISSION

Matter no: AM2021/54

STATEMENT OF ALBY DYMINSKI

I, Alby Dyminski, of [REDACTED], state as follows:

Introduction

1. I am employed by SPC Ardmona at the Shepparton site in process and production.
2. I make this statement based on my own knowledge, information and belief unless otherwise stated. Where I make statements based on information provided to me, I identify the source of that information and otherwise believe it to be true and correct.

Background facts

3. I was born on [REDACTED] in Australia.
4. I finished high school in 1979 in Shepparton. That year I started work in an abattoir in Shepparton.
5. After almost a year working in the abattoir, to supplement my income, I took on a season's work in the SPC cannery at Shepparton. I worked in the cannery on afternoon shift while I worked days in the abattoir.
6. The cannery work was seasonal; it revolved around the summer harvest of apples, pears and stone fruit from the region's orchards.
7. My work in the cannery involved placing the closing lids on cans of fruit. I was then, and I still am, ambitious. In this vein, I approached my then supervisor, [REDACTED], and I asked him what I needed to do to get ahead. [REDACTED] advice was to get to know all of the machines. I took up [REDACTED] suggestion and over my first and later seasons, I moved around the cannery developing competence on the various machines.

On-going casual work at the SPC cannery

8. Over the successive years I continued to turn up for seasonal work each summer. After 3-4 years at the abattoir, it closed. My replacement day job was making concrete pipes at Midland Concrete Pipes in Shepparton.
9. At Midland I worked as a pipe maker, making 300-450mm diameter concrete pipes.
10. The job at Midland paid the minimum wage. Even though I lived frugally, in a caravan, I had a partner and a daughter to support, so the season's work at the cannery was what kept me financially afloat.
11. In the mid-1980s I separated from my first partner and moved into a unit in town in Shepparton.
12. From the mid-1980s to 2000 I worked regularly at Midland on a full-time basis and I did the seasonal work at SPC on afternoon/night shifts. In the mid-90s I married and started a new family, so as well as my now adult daughter [REDACTED] I have two sons, [REDACTED] and a [REDACTED] daughter.

Lodged by: AMWU

Address for Service:

133 Parramatta Rd
Granville NSW 2142

Telephone: (02) 9897 4200

Fax: (02) 9897 4218

Email: keely.tobin@amwu.org.au

13. As my costs increased, the seasonal work became more vital to my finances. The Midland job paid minimum wages and I needed as much SPC work as I could get. I would regularly work back on overtime. This meant I had little time to sleep and summers were hard and tiring.
14. In 2000, I was made redundant at Midland. This meant I could work more hours at SPC, and my income picked up for SPC work. During the 90s, I earned around from \$2,500 to \$4,500 from my SPC work, but this jumped to \$15,000 to \$20,000 in 2001-02. I would work for 6-7 months on day work.
15. In 2003, I obtained a full-time job at the Shepparton RSL club in reception and security, working from 5 p.m. to, between, 11 p.m. and 1.30 a.m. Originally at the RSL I was casual, but I got a permanent position after approximately 2 years.
16. From then on, my cannery work stayed on days and my RSL work was the afternoon work. This still meant the season brought with it a long day's work.
17. I expanded my skills to plastic packaging processes on snack packs and soup lines. Later again, by 2001, I became skilled in retort operations, sterilizing plastic packages of soup and fruit by the application of heat. As I said before, I was keen to become able to do as many functions as possible in SPC.

Longer stretches of casual work at the cannery and a conversion application

18. By 2011, I was working for longer periods at the cannery on days. In 2011 to 2013, I was working almost 11 months per year.
19. On 23 May 2012, after becoming aware through the AMWU that I was entitled to request conversion to full-time work due to my length of service, I applied to SPC for conversion from seasonal to full time work.
20. On 25 March 2013, I received notification from SPC that my application for conversion was unsuccessful.
21. I applied to the Fair Work Commission and SPC eventually offered me a permanent part time role.

Observations about work at SPC prior to and following conversion

22. By the end of 2014, looking back over the last 3-4 years, I can say my work at SPC averaged about 10 months a year. I worked mostly in the retorts, but I could work almost anywhere in the plant. I have counted 25 different jobs I can do in the plant.
23. In a typical year I was stood down from working for about 6 weeks in the middle of winter, 1 week for the plant shut down around Melbourne Cup Day, and for about 2 weeks at Easter. For the rest of the year I worked.
24. One of the biggest disadvantages as a seasonal was that we worked on rolling 2-day appointments (seasonal employees are entitled to 2 days' notice of termination).
25. Thus, while I always hoped for on-going work apart from the closedowns, I was never sure that I would be working more than 2 days in advance. This uncertainty was unnerving for me as I had regular expenses and commitments to make.
26. One season, I was given notice 18 times that I would be finishing up work on a Friday, which would then be rescinded by SPC and work would continue. Most people would leave over the years because of the uncertainty but I needed the money and couldn't leave.
27. Also, if I wanted a holiday, I could not take leave like a normal person. I had to quit my job and hope I would get a phone call calling me back in. Now that I am permanent, I

- can plan my life and have some kind of balance where I can plan for breaks with my family.
28. Following conversion, together with my RSL shifts, I have secure earnings of about \$45,000 per annum. I have also divorced, and I have had to re-finance my house after a property settlement, so I have a considerable mortgage to deal with, plus the costs of supporting my dependant children. The fact that my income is now secure has minimised my stress significantly.
 29. I feel happy I now have job security at SPC. There have been so many career development opportunities offered to me since I converted to permanent that were not made available to me while I was casual. For example, I have been Team Leader on a number of occasions, and I now train and mentor other employees in procedure and safety.
 30. I can now plan my life and I'm not feeling negative about my future anymore. I now know I cannot be given notice on a Wednesday that I'll have no more work after Friday, and the difference this has made to my mental health has been incredible. It was so demoralising and heartbreaking that after a season's work and doing everything SPC told you needed to be done to get ahead, you would still be told to finish up and that there was no position for you until the next year. It affected my self-esteem to be in this situation for so long.
 31. I have been told about the proposed changes to the Food Award and I am horrified that the conversion entitlement may be removed, meaning that people like me will have to wait even longer to be able to request to convert. As my experience shows, it can take a long time to be granted conversion anyway, and to not even be able to start this process for an extra 6 months will affect casual worker's lives in a negative way; their self-esteem, financial security and mental health. I fear if the entitlement is changed from 6-months to 12-months, the Company will just remove casuals after the season finishes so seasonal casuals like I was will never become eligible for conversion. This was happening when the entitlement was 6 months but will be even easier for Companies to do if the entitlement is 12 months.

Alby Dyminski

24 August 2021

FAIR WORK COMMISSION

Matter no: AM2021/54

STATEMENT OF DARREN BATHMAN

I, Darren Bathman, of [REDACTED], state as follows:

Introduction

1. I am currently employed by SPC as a casual process worker at the Shepparton site.
2. I make this statement based on my own knowledge, information and belief unless otherwise stated. Where I make statements based on information provided to me, I identify the source of that information and otherwise believe it to be true and correct.

Background facts

3. I have been employed by SPC as a seasonal casual employee since 1998.
4. I was initially employed for 3-4 months of the year, but since 2006, I have been getting roughly 8-9 months work per year.
5. Being employed as a casual worker is so uncertain. I often get less than 24 hours' notice about whether or not I will be working or not. For example, recently I had the day off on a Friday, and I had been told I to wait for a call to let me know if I would be working the next Monday. I did not receive a call about working on Monday or for work of Tuesday, before being told that I would have work on the Wednesday. That ended up being three days off with no prior notice or ability to plan ahead about the loss of income.
6. I found out through the AMWU union delegate years ago that there was an entitlement to request to convert to permanency under my site EBA.
7. I have subsequently tried to convert on a number of occasions, and I have been refused on each occasion. I have requested conversion on at least 4 or 5 occasions.
8. I am currently receiving the assistance of the union to make another request.
9. I have been told about the proposed changes to the Award and I am horrified. In my experience, seasonal workers are a large proportion of casual employees in the food industry and most seasonal work goes from November to April. Most seasonal workers are put off by the employer after the season finishes, as I am every year. If the entitlement is to become available only after 12 months, this will have the result that most workers under the Food Award will never become eligible to apply and be stuck in insecure work forever.

Darren Bathman

20 August 2021

Lodged by: AMWU	Telephone: (02) 9897 4200
Address for Service: 133 Parramatta Rd Granville NSW 2142	Fax: (02) 9897 4218 Email: keely.tobin@amwu.org.au

FAIR WORK COMMISSION

Matter no: AM2021/54

STATEMENT OF HELEN FAWKE

I, Helen Fawke, of [REDACTED], state as follows:

Introduction

1. I am currently employed as a bag machine operator at the Lilydale site of the Yarra Valley Snack Food Company.
2. I make this statement based on my own knowledge, information and belief unless otherwise stated. Where I make statements based on information provided to me, I identify the source of that information and otherwise believe it to be true and correct.

Background facts

3. I have been working as a bag machine operator at Yarra Valley Snack Foods for almost 4 years.
4. I was initially employed as a full-time casual, but I knew from the start of my employment that I was entitled to request conversion to permanency at 6 months under the Food Award.
5. I did request this conversion and I was converted to permanency at around the 6 month mark (although I believe it could have been even earlier than this).
6. At the time, it was really important that I be converted to permanent employment. My husband and I, who was also casual at Yarra Valley Snack Foods, urgently needed to refinance our home. The bank required that both loan applicants be in permanent work in order for us to refinance.
7. Fortunately, my husband and I were both able to be converted to permanent employment at 6 months and were able to refinance our home soon after. If we had not been made permanent, I would have had to leave my job to obtain permanent work. If I was not able to obtain permanent employment we could have potentially lost our home because we would not have been able to refinance our home.
8. I have been told about the proposed deletion of this entitlement from the Food Award and the result that employees like me will have to wait at least 12 months to be eligible to request to convert to permanent employment. Waiting that extra time to make my request would have made my life and my family's life so difficult and put us under so much extra stress. It would have greatly lowered our quality of life.
9. Most of my casual employees at the company have been converted after 6 months of casual employment. As a result, most have tended to stay and it is a fairly stable

Lodged by: AMWU	Telephone: (02) 9897 4200
Address for Service: 133 Parramatta Rd Granville NSW 2142	Fax: (02) 9897 4218
	Email: keely.tobin@amwu.org.au

workforce.

10. I have noticed however, that there seems to be an increase in the use of labour hire workers. In my opinion, this increase seems to be as a reaction to the fact that casual workers are able to make the request to be made permanent. These workers seem to come and go more than the company employees.

Helen Fawke

23 August 2021

FAIR WORK COMMISSION

Matter no: AM2021/54

STATEMENT OF JASON HEFFORD

I, Jason Hefford, of [REDACTED], state as follows:

Introduction

1. I am employed as the Australian Manufacturing Workers' Union National Assistant Secretary Food, and Regional Assistant Secretary Food Victoria.
2. I make this statement based on my own knowledge, information and belief unless otherwise stated. Where I make statements based on information provided to me, I identify the source of that information and otherwise believe it to be true and correct.

Background facts

3. I have been working for the AMWU in the food industry for 13 years as firstly as an Organiser and now as the Regional and National Assistant Secretary. I have organised workers in various workplaces in Melbourne and Regional Victoria and also in Tasmania and NSW. I assist workers with collective bargaining and also with individual disputes, for example, with work health and safety and conversion of employment to permanency. I have experience dealing with both national and internationally based food companies, and prior to my role with the AMWU I had worked in the food industry since 1990 in various roles in the meat industry and at Heinz in processing and quality roles.
4. The food industry quite often provides low paid and insecure unskilled work. In my opinion, the knowledge and skills of these workers and their work generally is undervalued. At worksites that are highly organised, many workers have well-paid work, however, the AMWU is noticing increases in the casual and seasonal workforce that are unable to find secure employment.
5. For example, 2008 at the SPC Ardmona Factory in Mooroopna, I held a mass meeting in the middle of winter. All workers, both union members and non-members were invited to this meeting and there were around 180 attendees. After the non-member attendees were asked to leave the meeting, only 32 permanent and 40 seasonal workers remained. I was confused as to why there were so few permanent workers when it was the middle of winter (not the peak time for seasonal work) and the workers informed me that they had been told by management that we can work as "seasonal workers" for 11 months of the year and have 4 weeks off annually. Workers were told there are no permanent full-time positions for them. I then encouraged the casual employees to seek conversion, although many expressed concerns that their hours would be taken away if they indicated they wished to convert their employment. The AMWU continued to support workers to make these requests for conversion and at this site alone we have had around 160 applications for conversion and 82 casual employees successfully convert their employment to permanency from 2008 until the present day. Many of

Lodged by: AMWU	Telephone: (02) 9897 4200
Address for Service: 133 Parramatta Rd Granville NSW 2142	Fax: (02) 9897 4218 Email: keely.tobin@amwu.org.au

these had been working in seasonal roles for over 7 years and without the conversion provision in the Award and their EBA would have been unable to find secure work.

6. This amount of successful conversions took a massive organising effort on the part of the AMWU. We had agreed with the Company that the AMWU would undertake to work closely with their seasonal workforce to identify where there were gaps in the permanent workforce and what the Company needed. The Company reinforced to the AMWU that due to the pressures enforced by the supermarkets, the industry required a highly skilled and flexible workforce, and that it would be a condition of employment in the industry as a whole that an employee could not remain skilled in only one role, but instead would be able to work across the Company in multiple roles. The AMWU facilitated this process by helping workers identify what areas in which the employees were willing to be trained and what positions in which workers could then be employed. This process involved a large time investment from the AMWU. Even during this process, on occasion the Company would still attempt to block conversion applications, including tactics like monitoring hours offered to casual workers and when the worker would reach a certain threshold, giving the worker notice that there was no further work for that employee for three months, while simultaneously employing a new casual to work those hours. When the AMWU became aware of this practice we would challenge it under the EBA clause that prevented engagement and reengagement of casual employees.
7. The AMWU has observed the similar conditions for casual and seasonal employees at other sites where there is no EBA covering workers. The AMWU consistently observes very skilled workers being paid at lower classifications than their skills would justify. Most of these are long term casuals who would like to be permanent but are unaware that they have the right to request permanent employment under the Award. It is very rare to see an employer actually inform the employee of the right to request conversion, and if this is done an emphasis is usually placed on the loading that will be lost without providing the full list of entitlements that may be gained by conversion.
8. I am aware of the proposed change to the Food Award and am I very concerned about the effect this will have on the industry and on casual employees. I am concerned that the circumstance that I described at SPC Ardmona will be adopted by many companies seeking to avoid conversion obligations by keeping a rolling stock of casual employees that they will remove before they reach the 12-month entitlement and replace with new casuals. Food industry employees are particularly vulnerable to this practice given the seasonal flux in work in this industry. Removing the 6-month entitlement and replacing it with a 12-month entitlement will allow employers to adopt this practice to a much greater extent than is currently possible.
9. This will exacerbate the situation I have observed in the food industry, whereby employers complain that they cannot obtain and retain a skilled workforce yet fail to acknowledge that this is in large part due to the large amount of casual, seasonal and labour ire employees in this industry. The change will contribute to a further destabilisation of the food industry and lower conditions of life for casual employees, who, in the food industry, will simply not make it to the threshold in order to be entitled to request conversion and will be relegated to casual work indefinitely.

Jason Hefford

**National Assistant Secretary Food, Regional Assistant Secretary Food Victoria
Australian Manufacturing Workers' Union**