

WORKCHOICES - UNFAIR DISMISSAL LAWS

491. Mr P. PAPALIA to the Minister for Employment Protection:

Will the minister inform the house of the impact that the WorkChoices system has had on unfair dismissal laws in Western Australia?

Mrs M.H. ROBERTS replied:

I can confirm that as a result of the Howard government's WorkChoices system some 250 000 Western Australian employees - that is, more than one in four employees in Western Australia - have no recourse to any jurisdiction to hear their claims if they are unfairly dismissed. WorkChoices has effectively given employers the upper hand. Businesses can sack staff without any explanation and those employees cannot do a thing about it. Businesses that are constitutional corporations with either fewer than 100 employees, or with employees in the first six months of employment or for so-called operations reasons, can sack employees without their being able to have their unfair dismissal claim heard. I acknowledge that most employers want to do the right thing by their employees, but WorkChoices has made it hard for them too. The Fair Employment Advocate has found in her short time in the job that people are being unfairly dismissed. Since the engagement of the Fair Employment Advocate in May 2007, she has received many inquiries from employees who have been victims of the Howard government's unfair dismissal laws.

Two very brave young people came forward today and spoke to the media. It is not an easy task for someone who has been sacked to front the media and make that public. However, two very brave young people were prepared to do just that today. One was Hannah Burrowes. Hannah is 17 years of age. She had been working at Subway in Joondalup from May 2006 until mid-August 2007. Hannah went to work ill one day, a Saturday, and was told to go to the doctor. She told her employer that it would be unlikely that she would be in on Monday, although the employer could contact her if the employer needed someone to cover her shift. The manager then contacted her by text message, asking her to work on Monday, but Hannah did not have her mobile phone with her. Hannah was then sacked via text message. When Hannah questioned the reason she was fired, she was told it was for work performance and that she was too inconsistent. Until then, Hannah had not been told over the course of more than a year that her work performance was of any concern whatsoever. Despite working full-time hours, Hannah's employer now states that she was a casual and was employed according to the award. Hannah has no means to question the decision of her termination. WorkChoices has denied Hannah the right to pursue her claim in the Western Australian Industrial Relations Commission.

In another example, Scott Grygiel was employed as a storeman and delivery driver. Scott injured his finger outside work and he told his employer that he would not be able to work for four to six weeks. His employer told him not to bother coming back. Under existing Western Australian legislation employees are able to claim for unfair dismissal, regardless of the length of their employment. WorkChoices, though, has denied Scott the right to pursue his claim at the WA Industrial Relations Commission. Scott and Hannah's stories are not unique; many employees now do not have access to protection from unfair dismissal laws because of WorkChoices. The Fair Employment Advocate has received more than 300 inquiries. We need to ensure that some fairness and balance are injected back into the system. Businesses need to be aware of their obligations without being overburdened with regulations and bureaucracy. The WorkChoices system creates a complex, bureaucratic and expensive situation. Most employers would agree that we need a system that operates on the principle of natural justice and one that is fair and equitable for all.

Today I launched a discussion paper prepared by the Fair Employment Advocate, which highlights the changes in unfair dismissal laws since the introduction of WorkChoices. We want this discussion paper to stimulate debate about the core values that all Australians want from workplace relations systems. Unfair dismissal laws protect employees but there are also benefits for businesses. Adhering to fair termination practices can be seen as essential for attracting and retaining employees. In the work environment in Western Australia, where the economy is doing well, employers would do well to attract and retain employees. I table the unfair dismissal discussion paper that was released today.

[See paper 3117.]