



1 August 2019

Deputy President Bull
Fair Work Commission
Level 10, Terrace Tower, 80 William Street,
East Sydney, NSW 2011

By email: Chambers.Bull.DP@fwc.gov.au
amod@fwc.gov.au

Dear Associate,

AM2018/27 Application to vary the *Security Services Industry Award 2010*

We write on behalf of United Voice member Mr Christian Gavin, who has made an application to vary the uniform allowance in the *Security Services Industry Award 2010*.

Mr Gavin is employed as a security guard with MSS Security. Mr Gavin's submission and witness statement, filed on 28 July 2019, contains reference to, and copies of, an extract of a policy document of MSS Security and a series of emails between Mr Gavin and his supervisor and the Human Resources Manager at MSS Security.

On 30 July 2019, Mr Gavin received an email from the Fair Work Commission ('the Commission'), asking whether he had consent from MSS Security to use extracts from the policy and emails. The Commission's email advised him that the Commission may not be able to consider his submission and witness statement if he did not have the permission of his employer.

The extract from the policy document of MSS Security pertains directly to Mr Gavin's terms and conditions as an employee, as it sets out the uniform items he is required to wear. The emails between Mr Gavin and his supervisor and the HR Manager at MSS Security also relate directly to uniforms that MSS Security provide or provide reimbursement for. None of the documents contained in Mr Gavin's submission and witness statement traverse personal or confidential details. There is nothing damaging or commercially sensitive in the materials for the employer.

It is our position that Mr Gavin should not be required to have his employer's permission in order for the Commission to consider his submission and witness statement. A requirement that Mr Gavin obtain the permission of his employer so that he can refer to and attach

documents relevant to his terms and conditions of employment unfairly restricts the case that he may make before the Commission, and may restrict the material available to the Commission to make an appropriate decision on the matter.

Whilst we maintain that the material in Mr Gavin's submissions and witness statement is not of a confidential nature, the Commission may make an order under section 594 of the *Fair Work Act 2009* to prohibit or restrict the publication of aspects of Mr Gavin's submission and witness statement if the Commission is satisfied that it is desirable to do so because of the nature of the documents. If the Commission has concerns regarding Mr Gavin's material, United Voice would respectfully propose that an appropriate course of action may be to make an interim order and delay publishing Mr Gavin's submission and witness statement for a period of 7 days to provide MSS Security with an opportunity to determine whether they wish to apply for a confidentiality order. Any application for a confidentiality order could then be determined by the Commission on its merits. Mr Gavin has indicated that he will provide a copy of his submission and witness statement to his employer today.

If the Commission is considering requiring Mr Gavin to have the *permission* of his employer prior to accepting Mr Gavin's submission and witness statement, we seek to be heard on this matter.

Yours sincerely,

Natalie Dabarera
Industrial Officer
United Voice National Office
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