

From: Noni Lord [mailto:noni.lord@aed.org.au]
Sent: Friday, 2 February 2018 5:10 PM
To: Chambers - Hatcher VP; AMOD
Subject: AM2014/286 - Supported Employment Services Award

Dear Associate

We attach three witness statements, Kairsty Wilson, Kate Last and Peggy Eagles.

These statements are now signed. They were originally filed on 2 October 2017 unsigned.

Regards
Noni

Noni Lord
Legal Assistant
AED LEGAL CENTRE
Suite 4 Level 9, 276 Flinders Street, Melbourne 3000.
Tel: (03) 9639 4333 Fax: (03) 9650 2833 web: www.aed.org.au

Liability limited by a scheme approved under Professional Standards Legislation

Help AED by making a Tax Deductible donation at:
www.goodcompany.com.au/charity/Association-of-Employees-with-Disability-AED-Legal-Centre

 Find us on
Facebook www.facebook.com/aedlegalcentre

“This email is intended solely for the person or organisation to whom it is addressed, and may contain secret, confidential or legally privileged information. If you have received this email in error or are aware that you are not authorised to, you MUST NOT use or copy it, or disclose its contents to any person. If you do any of these things you may be sued or prosecuted.”

Fair Work Commission

4 yearly review of Modern Awards

Supported Employment Services Award

Matter No: AM2014/286

WITNESS STATEMENT OF PEGGY EAGLES

I, Peggy Eagles, C/- AED Legal Centre, Suite 4, Level 9, 276 Flinders Street, Melbourne in the State of Victoria, state as follows:

BACKGROUND

1. I am the mother and carer of Danielle Harris.
2. Danielle works in supported employment at Wallara Industries.
3. Danielle has multiple disabilities including intellectual, cerebral palsy, and uncontrolled epilepsy. Danielle is wheelchair-bound.

WORKING AT WALLARA INDUSTRIES

4. Danielle began working at Wallara Industries in or about August 2009.
5. At Wallara Industries Danielle does packaging tasks such as:
 - a. body shop products;
 - b. makes boxes; and
 - c. puts tags on clothing.
6. When Danielle started at Wallara Industries what she would be paid was worked out using a wages tool called the Business Services Wage Assessment Tool ("BSWAT"). When assessed, she was paid \$3.79 an hour.
7. As I understand it, BSWAT is no longer used. We were told in or around 2015/16 that Wallara Industries would replace BSWAT with a Tool called SkillsMaster. At Wallara Industries, it was replaced with a tool called SkillsMaster. I was told that the SkillsMaster software system was designed

to enable an organisation to efficiently record, manage and analyse all aspects of an employee's job competencies and training needs in order to determine a fair and non-discriminatory pro-rata wage.

8. Danielle was assessed under SkillsMaster in the 5% range. This results in a rate of pay of \$0.91 an hour. Attached and marked "Attachment A" is a copy of that assessment. Despite the assessment, Wallara Industries applies a minimum hourly rate of \$2.50 an hour, but I have been informed that Wallara intends to maintain Danielle on the old BSWAT rate of \$3.79 per hour for the next twelve months or until her next assessment.
9. Danielle's wage assessment outlines that there are 23 task units in the job however her wage assessment results appear to only involve two assessment tasks.
10. Danielle's assessment results under SkillsMaster consisted of assessment task units involving numeracy and literacy skills only. Under the SkillsMaster tool, Danielle's workplace literacy was rated as 'Fair' (3) and her numeracy was rated as 'very poor' (1). Danielle's final assessment score was 4. A final assessment score of '4' results in rate of pay that is 5% of the award under the SkillsMaster tool.

WAGE ASSESSMENT AT WALLARA INDUSTRIES

11. Wallara Industries, as an employer, stated that they will find jobs that supported employees could do and improve in and that supported employees will be trained so that they are better at their jobs.
12. SkillsMaster does not provide a clear indication of the process the assessor goes through to establish whether an employee is deemed 'competent' in a particular task unit. Only that it is done through a yes/no basis and in accordance with Assessor Competency Standard. Attached and marked "Attachment B" is a copy of what we were provided in relation to the SkillsMaster wage assessment process.

13. Skillsmaster stipulates that employees should receive a job model which is comprised of the required task skills the employee needs to fulfill its role. On the employee competency record Danielle received, the job model it outlined as 'Assembly Worker- Level 2'.
14. The outline of the tool states that those task units where the employee is deemed not to be competent; should be referred for training. I have been given no indication of how/when/ if that will occur and what the training will be based around as other assessable task units not expressed. I assume this means that Danielle did not even receive a "0" in the other 21 areas assessed as no notes were taken of these areas. It is also not clear what the areas are that were meant to be assessed.
15. There seems to be no explicit requirement that employees must be informed of the assessable task units of their role. Although, the tool claims high levels of transparency which would indicate that this should perhaps be expected. We were supplied with a copy of a Grievance Process. "Attachment C" is a copy of this process. Although we disagree with the result of the Assessment after discussion with Wallara we decided not to take the matter any further. We know that Wallara will continue using SkillsMaster and whilst the Assessment Tool is as it is we know that Danielle will not achieve any better results especially as no training package has been discussed with us and therefore we do not believe anything will change.



PEGGY EAGLES

20/12/2017
DATE

Fair Work Commission

4 yearly review of Modern Awards

Supported Employment Services Award

Matter No: AM2014/286

WITNESS STATEMENT OF KATE LAST

I, Kate Last, C/- AED Legal Centre, Suite 4, Level 9, 276 Flinders Street, Melbourne in the State of Victoria, state as follows:

BACKGROUND

1. I am employed at Highpoint Industries which was formally owned by Scope and is now owned by the Endeavour Foundation.
2. I am a supported employee working at Highpoint Industries. I work two to three days per week.
3. I am a person with disabilities. I used to think I had only epilepsy and deafness, but I noticed that I could not do things which other people could do. I went to a special school because I could not go to a normal school due to the fact that I could not do normal school work. I also have post-traumatic stress disorder and short term memory loss. I have an intellectual disability.
4. I began working at Highpoint Industries on or about 26 July 2004. The job that I do at Highpoint has not changed from the time I commenced up to date.
5. At Highpoint Industries I do tasks such as:
 - a. cutting strings for sausages,
 - b. putting tins into boxes in a specific order;
 - c. Packing muesli bars into boxes; and
 - d. Making up boxes
6. When I was first working at Highpoint I was told that my wages would be worked out under something that was called BSWAT. I cannot remember what my hourly rate was but when I was re-assessed in 2008 I was paid



20/12/2017

\$4.2271 per hour. At the end of 2012, I was assessed again under BSWAT at \$5.77 an hour. I cannot find a copy of my BSWAT Assessment. However, Highpoint agreed to pay me \$10.00 an hour.

7. I can't remember when Highpoint stopped using BSWAT but I think it was three or four years ago. My pay was worked out using another tool. I did not understand how they worked out what to pay me but it was called Skillsmaster. I was still doing the same job I have always done. However, after Skillsmaster came in I got paid for that work \$8.47 per hour, still do.
8. Highpoint no longer pay me the extra that I got paid when BSWAT was being used. I now get paid \$8.47 per hour.



KATE LAST

20/12/2017

DATE

Fair Work Commission

4 yearly review of Modern Awards

Supported Employment Services Award

Matter No: AM2014/286

STATEMENT OF KAIRSTIEN WILSON

I, Kairstien Wilson, Lawyer C/- AED Legal Centre, Suite 4, Level 9, 276 Flinders Street, Melbourne in the State of Victoria, state as follows:

BACKGROUND

1. I am employed by the Association of Employees with Disability Inc. t/a AED Legal Centre (AED) in the position of Principal Lawyer.
2. I have been employed by AED since its inception on 1 July 2008. Prior to that I was employed by Disability Employment Action Centre in the same role from 2 July 2002.
3. In preparing this statement, I searched for the reports referred to in cl. 14.4.(d) and (e) of the *Supported Employment Services Award* and downloaded them from the web-sites referred to below. The same applies in relation to the SWS hand-book with the web-site mentioned in Schedule D of the Award. The documents I downloaded and web-sites are as follows:
 - a) Jenny Pearson & Associates; *Analysis of Wage Assessment Tools used by Business Services, Final Report (incorporating 22 wage tools)* 12 April 2008. This Report is referred to in cl. 14.4.(e) of the Award:
<https://www.dss.gov.au/our-responsibilities/disability-and-carers/publications-articles/policy-research/final-report-incorporating-22-wage-tools>. The report is annexed to this statement and marked Attachment –‘A’.
 - b) Jenny Pearson & Associates, *Analysis of Wage Assessment Tools used by Business Services*: which is referred to in cl. 14.4.(e) of the <https://www.dss.gov.au/our-responsibilities/disability-and-carers/publications-articles/policy-research/analysis-of-wage-assessment-tools-used-by-business-services-0>. The report is annexed to this statement and marked “Attachment B”.

- c) Disability Employment Services: Supported Wage System Handbook as at July 2017 referred to in Schedule D of the Award. Supported Wage System Handbook | Job Access. The report is annexed to this statement and marked "Attachment 3".

WAGE TOOLS AND WAGE DETERMINATIONS

4. I contacted Mr James Kemp, Director, Payment Scheme and Supported Employment Policy of the Department of Social Services (DSS) on Friday 29 September 2017 to ask if there had been any data collected from the ADE's in relation to the wage tools referred to in cl. 14.4.(b) of the Supported Employment Services Award and the wage determination each tool delivered. He said that there is no official data held in relation to which ADE uses which tool or the wages outcomes they deliver. The only data that was collected was for the period when the Business Services Wage Assessment Tool (BSWAT) was used. The reason for this was that the tool was owned by the DSS.
5. Mr Kemp further advised me that when there was the transfer from BSWAT to another tool, records were kept to report to the Australian Human Rights and Equal Opportunity Commission (HREOC) on a quarterly basis. No data was provided in relation to wage determination for the employees assessed under alternative tools. However, he informed me, the data showed that the majority were moving to either the Greenacres or SkillsMaster tools. This data was only reported for the twelve-month period (April 2014-April 2015).

DATE: 19 October 2017

SWORN at Melbourne

Name of witness

Jonathan Lee
Level 9, 276 Flinders Street, Melbourne
An Australian Legal Practitioner within
the meaning of the Legal Profession
Uniform Law Application Act 2014 (Vic)

Signature of Witness