

## **IN THE FAIR WORK COMMISSION**

### **S160 – Variation of modern awards**

#### **AM2020/21 - Application to vary the**

#### ***Social, Community, Home Care and Disability Services Industry Award 2010***

#### **Zeenat Abdullah (the Applicant)**

Ms Abdullah after review of all the proposals and oppositions to the her proposal to vary the Award concurs with the NDS view that if a variation is to be made it should be limited in scope to employees engaged to work sleepover or night shifts.

Unfortunately no alternative recommendations that would correct the inequity identified in the Social, Community, Home Care and Disability Services Industry Award 2010 (SCHADS) at clause 25.3 “Rostered Days Off” by Ms Abdullah have been offered up for consideration by any of the union’s submissions to date.

However Ms Abdullah thanks the unions for their submissions and in general can appreciate their concerns, points of view and information supplied. Ms Abdullah apologises for her seemingly naïve attempt to resolve the identified inequity with the submitted proposed draft. It should be noted that advice and a way forward was asked for, from Ms Abdullah’s union in April 2019 and on other subsequent appeals for help but then as now none was given to remedy the issue, making it necessary to bring this issue to the FAIR WORK COMMISSION to determine a fair and equitable resolution.

Ms Abdullah takes this opportunity to thank the following for their submissions, time and effort in identifying the inequity and supplying potential solutions.

Australian Federation of Employers and Industries:

National Disability Services:

Australian Industry Group:

Ms Abdullah was asked to withdraw her submission but Ms Abdullah felt that she could not ignore the identified inequity as she felt it would be unconscionable of her to do so.

In the interests of trying to resolve the identified inequity and having diligently read all the submissions Ms Abdullah feels that the draft amendment determination submission of two potential solutions put forward by the National Disability Services either of which would remove the issue and may satisfy to some degree the unions’ objections.

The options as stated in the National Disability Services submission are as follows.

*There are at least two ways in which the determination could be amended to address the reservations we have expressed.*

*The first is simply to retain the existing clause 25.3 but add an exception that adopts the wording of the draft determination, confined to periods free from duty following the performance of a sleepover or night shift.*

*The second approach to drafting could be to take the approach used in some pre-reform awards that applied in the community and disability services sector<sup>1</sup>, where the time off for night shift workers was expressed as “nights off” rather than days off. This would achieve the same outcome that Ms Abdullah seeks in the original application.*

(1 See for example, AP815319 - Social and Community Services - Western Australia Award 2002 at clause 20.3; AN150046 Disabilities Service Award (SA) at clause 6.4; AN150140 Social and Community Services Award (SA) at clause 6.8)

For and on behalf of Ms Zeenat Abdullah.

Best regards and warmest wishes

Stewart W Bailey

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