

**FAIR WORK COMMISSION**

**MATTER NO. AM2014/305**

**Penalty Rates**

**Statement of Angus Lonergan**

I, Angus Lonergan, Barista, of 156 Errol Street, North Melbourne, in the State of Victoria, say:

1. I am not a member of United Voice.

**Personal Details**

2. I was born on 22 November 1990.
3. I live with my partner, who is working full time.

**Work History**

4. I graduated with a Masters Degree in International Relations from Latrobe University in March 2015. Before that, I completed a Bachelor of Internal Relations from the same institution.
5. I have a *Responsible Services of Alcohol* certificate.
6. I have received informal training as a barista from two employers, but I do not have a formal hospitality qualification.
7. I have worked in hospitality on and off since I was sixteen and still in high school. For the most part, I have worked on the floor as a server. Recently, most of my work is as a barista.
8. In 2009, after I graduated from high school, I began working as a cadet journalist at the Launceston Examiner. I was the sole journalist for a monthly community publication in the Tamar Valley. I left that job in 2011 to attend university in Melbourne.

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Filed on behalf of the Respondent  
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9. In 2011, I came to Melbourne to start a Bachelor of International Relations at Latrobe University.
10. Since I have been studying in Melbourne I have worked in hospitality to support myself. I have been supporting myself since I moved to Melbourne and pay my own rent, living expenses, and school costs.
11. During my undergraduate degree I received the Youth Allowance social security payment because I lived away from home. I tended to work three days a week, split between different jobs. I earned enough money to pay rent, groceries and bills if nothing went wrong, but I never had time to rest or enjoy myself. I have not been eligible for any social security payments such as Youth Allowance since finishing my undergraduate degree at the end of 2013.
12. In 2011, I worked at Writers Block, a café on the Latrobe University campus. I worked there until I started at The Place.
13. In 2013, I started working at The Place, my current employer. At the time, I mostly worked on the floor, but sometimes I made coffees. My employer sent me to barista training at their corporate headquarters in Reservoir. I worked there for approximately one year. I left The Place in mid 2014 when I was halfway through my Masters study, because I moved to Preston and needed work closer to my home. I liked working at The Place because I was paid the Award wage, including penalty rates, and my managers were flexible when setting the rosters.
14. In 2013, I also worked at the cooperative bookshop at the Latrobe University Student Union.
15. After I left The Place in mid 2014, I started working at Cheshire in Preston. I was paid cash in hand below the Award rate and I did not earn penalty rates. I worked at Cheshire until about March 2015.
16. After I left Cheshire, I worked at Cinque Lire in North Melbourne. I worked there for six weeks before leaving. I was paid cash in hand below the Award rate and did not receive penalty rates.
17. In June 2015, I returned to work at The Place.

### **Current Work**

18. I started working at The Place again on 25 June 2015 as a casual barista and server. I am employed under the *Restaurant Industry Award 2010 (the Award)*. I am unsure of my classification under the Award, however based on my ordinary rate of pay, which is \$21.86, I assume I have been classified as a casual employee at the introductory rate.
19. As stated above, I worked at The Place in 2013 for about a year before leaving to find work closer to my home. I returned to work at The Place as I always had a good rapport with the owners and manager and was able to restart immediately. I also knew I would receive penalty rates for weekend work.
20. I currently work somewhere between 20 to 25 hours week.
21. I work three shifts each week. My roster is not fixed, however I tend to be rostered similar shifts each week. I tend to work a 7 hour shift on one weekend day, and two 7.6 hour shifts on other days. I regularly work both days of the weekend. I always work at least one. I have worked on public holidays in the past. Since I have started at the Place, there have been no public holidays. I cannot say if we will work on those days.
22. The Place opens during the day, but not at night. I work from around 6.00am or 7.00am until closing time in the late afternoon. This changes from shift to shift.

### **Impact of Work on Study**

23. While I was a student, I was unable to work full time. I worked in hospitality while studying because I needed a job that would fit around my study commitments. At times, I worked for cash in hand because these were the jobs that I could find. I had to support myself, and I took what I could get. I worked as much as I could, and still struggled to get by.
24. I did not like being paid cash in hand. I could not prove that I was employed, because I was never issued a pay slip. This made it very difficult to rent a home. It was also difficult to comply with my tax obligations. I could not prove my income

and PAYG tax was never deducted. I was also never paid superannuation. I did not feel safe carrying my whole weeks wages in cash.

25. When I did not earn penalty rates, I had to work an additional day each week to earn enough money, which had a negative impact on my health and study. I currently make as much money in three days with penalty rates as I did in four days work at cash in hand jobs.
26. Balancing work and study was difficult. I had to sacrifice study, learning opportunities, and career opportunities in order to work enough to support myself.
27. As an undergraduate student, I was required to attend class four days a week. I then worked the other three days. I had to find time to study in between working and attending class. This was very difficult. I had to study at odd hours or in short bursts. I was often too tired to focus properly because I did not have time to for rest or relaxation.
28. While I was completing my master's degree, I attended class two days a week and worked four days a week in a café. I could not work less than four days, because I had to pay my rent, had no government support, and needed to earn enough money to cover my expenses. The workload for my master's degree was much greater than for my undergraduate degree. While I had fewer contact hours, I was expected to complete more work autonomously. I often had to cram a week's worth of study into my single day off.
29. Foreign languages are a big part of my study in international relations. My foreign language learning diminished while I was studying because I did not have time to commit to it outside of class. An important part of learning a language is being exposed to it from watching movies, seeing plays and listening to music, but I didn't have time to do this because I was either working or studying in my spare time. I also missed out on social events and discussion groups where I could practice my conversational skills. I do not have the same fluency as someone who had the free time to do these things. I studied international relations, and fluency in a foreign language would add to my employability.

30. I was unable to participate in extra-curricular activities, which I believe has negatively affected my career prospects. It was impossible for me to get a career-progressing internship during the winter and summer university vacation, because I had to work. I also was not in the financial situation to do an overseas exchange with a University in another country
31. During examination periods, I had to reduce the number of hours I worked so that I could study. When I worked fewer hours, I would not have enough money to pay for food and bills after paying my rent. I was regularly unable to pay my mobile phone bill during the examination periods. I maxed out my credit card and borrowed money from friends and family to survive. I would worry about money, to the point it was a distraction from my study.
32. Even when I was able to work four days a week, I had to manage my money carefully.
33. If I had any spare time, I found I didn't really enjoy it because I did not have the money. If I wanted to go out for dinner, I would have to choose the restaurant carefully and I was always too worried about the cost to enjoy myself.

#### **The Impact of Weekend and Public Holiday Work**

34. The biggest thing that I lose from working irregular hours over weekends and public holidays is time with my partner. He works during the week, and his free time is on the weekend. We would like to take day trips on the weekends or go to cultural events, but we cannot do this together because I am working.
35. I have trouble making time to see friends who work during the week, and it is very rare that I will see my friends as a group. I am often unable to attend birthday parties and other celebrations because I am working and they are held on the weekend. If they are during the day, I am normally working. If they are at night, I will probably have to leave early so that I am not tired for my shift the next day.
36. Although I do not work nights, when I attend parties or celebrations on Friday and Saturday nights I am always conscious of having to work the next day. Those nights are a 'school night' for me. If I am able to attend a social event, I usually have to leave early because I am working early the next day.

37. I cannot afford to miss a Saturday or Sunday shift because of the penalty rates, so I do not have the same freedom to choose how to spend my time. For example, earlier this year my parents came from Tasmania to visit me. They work full time, so they took leave and had a long weekend in Melbourne. They arrived on the Friday and left on the Monday. I had to work that weekend and I was unable to spend much time with them. I had to see them for short periods of time in between working. We went out to dinner on the Saturday night, but because I was working on Sunday morning I had to go home early.
38. I have friends who work in hospitality, but like me they work an irregular schedule. It can be hard to find a time to see each other because we have shifts at different times each week.

#### **Income and Expenses**

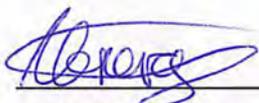
39. In an average week I earn between \$450 and \$500 gross.
40. In an average week, about \$65 of my pay comes from penalty rates. Attached and marked **Annexure A** is a copy of my pay slip for the period ending 22 July 2015.
41. My wages are not the only source of income in my household. We also rely on my partner's income of approximately \$700.00 per week.
42. My average weekly expenses are approximately \$465.00, comprised of:

Rent:	\$165
Household bills (utilities, telephone, internet):	\$50
Groceries:	\$100
Transport (petrol, tickets):	\$50
Other household expenses:	\$100
<b>Total:</b>	<b>\$465</b>

#### **Impact of Reduction in Penalty Rates**

43. I have been shown the variations to the Award sought by the Restaurant and Catering Industrial (RCI) and Australian Business Industrial (ABI). I understand that:

- a. RCI is seeking to reduce public holiday penalty rates for casual employees from 250% to 150%; and
  - b. ABI is seeking to remove public holiday penalty rates for casual employees.
44. I have calculated that if penalty rates are reduced in this way, then I will lose approximately \$153.00 to \$122.00 when I work a 7 hour public holiday shift, depending on the claim that is supported.
45. While I would be able to work additional hours, the impact of doing so would mean that I would have less time to search for full time work. This is a very intensive process. I have applied for 20 jobs since graduating. Each job application requires writing a cover letter, addressing a separate selection criteria document (or other specific questions), and tailoring my resume. Each application can take more than two hours.
46. The graduate job market is highly competitive. I have worked to support myself the entire time I have been studying. As a result, I have not had the same opportunities for career development as other graduates, such as doing internships. The skills and experience I have developed over my time working in hospitality are not valued by potential employers and I must compete for professional jobs with graduates who had the ability to do unpaid work and development opportunities.



Witness Signature

Angus Lonergan

Witness Name (printed)

Date: 10/8/15

# ANNEXURE A

**TORTES AND BEANS PTY LTD**

A.B.N. 26 163 130 194

Pay Slip For: Angus Lonergan

Cheque No: eft

Classification: Floor Staff (Cafe)

Payment Date: 22/07/2015

Annual Salary: \$34,101.60

Hourly Rate: \$21.86

Pay Period From: 15/07/2015 To: 21/07/2015

GROSS PAY: \$544.32

Superannuation Fund: REST

NET PAY: \$497.32

DESCRIPTION	HOURS	CALC. RATE	AMOUNT	YTD	TYPE
Base Hourly	7.5	\$21.86	\$163.95	\$284.18	Wages
Penalty Rate 1	8	\$26.23	\$209.86	\$360.69	Wages
Penalty Rate 2	6.5	\$26.23	\$170.51	\$380.37	Wages
PAYG Withholding			(\$47.00)	(\$48.00)	Tax
Superannuation			\$51.71	\$97.40	Superannuation Expenses

**TORTES AND BEANS PTY LTD**

A.B.N. 26 163 130 194

Pay Slip For: Angus Lonergan

Cheque No: eft

Classification: Floor Staff (Cafe)

Payment Date: 15/07/2015

Annual Salary: \$34,101.60

Hourly Rate: \$21.86

Pay Period From: 8/07/2015 To: 14/07/2015

GROSS PAY: \$360.69

Superannuation Fund: REST

NET PAY: \$359.69

DESCRIPTION	HOURS	CALC. RATE	AMOUNT	YTD	TYPE
Base Hourly				\$120.23	Wages
Penalty Rate 1	5.75	\$26.23	\$150.83	\$150.83	Wages
Penalty Rate 2	8	\$26.23	\$209.86	\$209.86	Wages
PAYG Withholding			(\$1.00)	(\$1.00)	Tax
Superannuation			\$45.69	\$45.69	Superannuation Expenses

**TORTES AND BEANS PTY LTD**

A.B.N. 26 163 130 194

Pay Slip For: Angus Lonergan

Cheque No: EFT

Classification: Floor Staff (Cafe)

Payment Date: 1/07/2015

Annual Salary: \$34,101.60

Hourly Rate: \$21.86

Pay Period From: 24/06/2015 To: 30/06/2015

GROSS PAY: \$120.23

Superannuation Fund: REST

NET PAY: \$120.23

DESCRIPTION	HOURS	CALC. RATE	AMOUNT	YTD	TYPE
Base Hourly	5.5	\$21.86	\$120.23	\$120.23	Wages