

IN THE FAIR WORK COMMISSION

AM2017/40 Penalty Rates – Hair and Beauty Industry Award 2010

WITNESS STATEMENT OF SARKIS AKLE

I, Sarkis Akle of [REDACTED] (NSW) do solemnly and sincerely declare and state the following:

1. I am the Director of Hair by Phd. I have held this position since 1997.
2. In my role as Director, I am responsible for the back-end management of Hair by Phd. This includes a range of duties including rostering, staff training, marketing, and managing the business' finances. I spend time across all of Hair by Phd's Salons (**Salons**).
3. I have worked in the hairdressing industry since 1985.

The Salons

4. There are three Salons. All are located in Sydney:
 - a) Phillip Street, Parramatta (**Parramatta Salon**);
 - b) Carmen Drive, Carlingford (**Carlingford Salon**); and
 - c) Albert Barker Arcade, Camden (**Camden Salon**).
5. The Salons provide haircuts, styling, colouring and treatments.
6. The operating hours and employee numbers of the Salons as at 7 March 2018 are below.

The Parramatta Salon

7. The opening hours of the Parramatta Salon are as follows:

Day	Opening Hours
Monday	Closed
Tuesday	9:00am – 5:30pm
Wednesday	9:00am – 8:00pm
Thursday	8:30am – 9:00pm
Friday	8:30am – 5:30pm
Saturday	8:00am – 4:00pm
Sunday	Closed
Public holidays	Closed

8. There are 15 employees employed at the Parramatta Salon. It is my understanding that they are all covered by the *Hair and Beauty Industry Award 2010 (Award)*. They are employed on a full-time or casual basis as follows:

Type of Employment	Number
Full-time	11
Casual	4
Total	15

9. There is no enterprise agreement applying to these employees.

The Carlingford Salon

10. The opening hours of the Carlingford Salon are as follows:

Day	Opening Hours
Monday	Closed
Tuesday	9:00am – 5:30pm
Wednesday	9:00am – 9:00pm
Thursday	9:00am – 5:30pm
Friday	9:00am – 5:30pm
Saturday	8:00am – 4:00pm
Sunday	Closed
Public holidays	Closed

11. There are 6 employees employed at the Carlingford Salon. It is my understanding that they are all covered by the Award. They are employed on a full-time or casual basis as follows:

Type of Employment	Number
Full-time	5
Casual	1
Total	6

12. There is no enterprise agreement applying to these employees.

The Camden Salon

13. The opening hours of the Camden Salon are as follows:

Day	Opening Hours
Monday	Closed
Tuesday	9:00am – 5:30pm
Wednesday	9:00am – 9:00pm
Thursday	9:00am – 5:30pm
Friday	9:00am – 5:30pm
Saturday	8:00am – 4:00pm
Sunday	Closed
Public holidays	Closed

14. There are 3 full-time employees employed at the Camden Salon. I understand that they are covered by the Award.

15. There is no enterprise agreement applying to these employees.

Hair and Beauty Australia's Claim

16. I understand that Hair and Beauty Australia (**HABA**) has proposed a variation to the Award to reduce Sunday and public holiday penalty rates as follows:

	Current Rate	Proposed Rate
Sunday	200% of hourly rate	150% of hourly rate
Public holiday	250% of hourly rate	225% of hourly rate

17. I understand that the proposed change would be relevant to the Salons' Award-covered full-time, part-time and casual employees.

Trading on Sundays and Public Holidays

18. For a period of 12 – 18 months during 2012 – 2013, the Parramatta Salon opened on Sundays. It ceased trading on Sundays because of the high labour costs that it was incurring on Sundays. I did not consider that operating on Sundays was viable.
19. Due to the high Sunday penalty rate, a cautious approach was taken to rostering. For example; generally only two stylists were rostered to work and the receptionist was never rostered to work on Sundays.
20. I conceive of labour costs as an investment in the business, however there is a risk that the business will not receive a sufficient return to cover the cost of that investment, let alone make a profit. That risk is heightened when the cost of the investment is so high (i.e. an hourly rate of 200% or 250%).
21. As the Parramatta Salon became busier on Sundays, there appeared to be a need to roster additional staff, however this further increased labour costs. Rostering additional employees resulted in the business carrying the risk that such employees would not be productively engaged for their full shift and as a result, there would be a very small return on that investment.
22. The Parramatta Salon was often unable to service walk in customers on Sundays because of the low staffing levels. I was concerned that if fewer employees were rostered to work on Sundays, the Parramatta Salon would have to turn away many customers who contacted the salon to make an appointment and/or walk in clients.
23. Turning away customers has two consequences:
 - a) A lost opportunity to generate revenue and recover some of the Parramatta Salon's costs; and
 - b) A potentially disappointed and/or unhappy customer who, in addition, may not attend the Parramatta Salon again.

24. I did not implement a surcharge on Sundays when the Parramatta Salon opened because I was concerned that customers would react adversely and leave the business.
25. I remain concerned that customers would react that way if the Salons currently opened on Sundays and implemented a surcharge. Accordingly, if the Salons opened on Sundays, I would not implement a surcharge.
26. The Salons receive queries from some new and existing customers about whether they open on Sundays.
27. None of the Salons open on public holidays. I consider that because of the current penalty rate of 250%, labour costs are too high for the Salons to viably operate on public holidays.

The Salons' Pricing Structure

28. I review the Salons' prices annually. The purpose of the review is to evaluate whether the prices need to be increased in light of the Salons' costs. Some of Salons' costs, such as rent and wages, increase every year.
29. The Salons cannot, however, pass on all its cost increases to customers. This is because the hairdressing industry is very competitive. I consider that there is a risk that if prices are increased too far, the Salons will be priced out of the market.
30. ~~The Salons competitors include other hairdressing salons, however it is not limited to those salons. I consider that the Salons are also competing against other discretionary expenditure by the Salons' customers. That is, I conceive of money spent by customers on their hair as constituting a portion of their discretionary spending. The services provided by the Salons are not, as such, essential services; apart from basic haircuts. Therefore, I consider that the Salons are effectively competing for a portion of a customer's discretionary spending, which they will otherwise spend on something else. I consider that this factor also limits the extent to which the Salons' prices can be increased.~~

The Potential Impact of a Reduction to the Sunday Penalty Rate

31. I have observed that there are several new residential apartment blocks and other housing in and around Parramatta, which has developed recently. As a result of these developments, I consider that there is a new market for the Parramatta Salon to try to attract.
32. The potential customers that fall within that new market can be distinguished from our current largely transient clientele who generally work in the Parramatta CBD or are passing foot traffic through what is known as Parramatta's 'Eat Street'; a large number of restaurants and cafes along Phillip Street and the nearby Church Street. The new market consists of local potential customers who live in the Parramatta CBD or surrounding areas. In my experience, such local clientele often brings repeat business.
33. To the extent that some of those potential customers work on weekdays, I consider that opening the Parramatta Salon on a Sunday would give them an additional opportunity to access Hair by Phd's services; not just one-off but also on an ongoing basis.
34. The Parramatta Salon's aim is to attract new customers, retain existing customers and continually grow its business. Opening on Sundays is an additional opportunity to attract, retain and grow the business.
35. The observations I have made in the paragraphs above about the growth of the residential population in and around Parramatta has caused me to consider opening on Sundays in recent times, however because of the current penalty rate, I have not felt confident about taking the risk of opening. If the Sunday penalty rate was reduced to 150%, I consider that that risk would be reduced significantly and I would open the Parramatta Salon on Sundays.
36. I am aware that the nearby restaurants and cafes referred to above are generally open on Sundays. I expect that as a result, the Parramatta Salon would have walk in customers visit on Sundays from the resulting foot traffic. This is consistent with my experience of opening the Parramatta Salon on Sundays in 2012 – 2013. The foot traffic in the area brought in walk in customers.

Sundays in 2012 – 2013. The foot traffic in the area brought in walk in customers.

37. Initially, I would roster two stylists and an apprentice to work on Sundays. If the business grew busier, I would increase the number of employees rostered to work on Sundays. I would roster existing employees willing to work on Sundays and, if the need arose, recruit additional casual staff to work on Sundays.



Sarkis Akle

Date: 9/3/18.