

**Senate Standing Committee on Education Employment and Workplace  
Relations**

**QUESTIONS ON NOTICE  
Budget Estimates 2012-2013**

**Agency - Fair Work Australia**

**DEEWR Question No. EW0169\_13**

**Senator Abetz asked on 28 May 2012 , Hansard page 42**

**Question**

**FWA - Unfair Dismissal Conciliation - U2011/1733**

Senator ABETZ: So no appointment has been made. Has the Fair Work Australia arbitration roster team been written to by Australian Dismissal Services about matter No. U2011/1733? Ms O'Neill: No. We do not have any information about that.

Senator ABETZ: What I would ask you to do is take it on notice and provide us with a written explanation as to what happened. Basically, as I understand it, there were two companies with similar names run by sisters and one sister got the wrong advice about unfair dismissal and it went all the way through to at all times the one sister saying, 'You've got the wrong one; you've got the wrong company.' Finally the name was changed but we did not go back to square one and so the sister against whom the action should have actually been taken was denied the conciliation and other steps prior to hearing, which seems to be a matter of some concern, if I might say. But time is getting precious so I will leave that and if you can get back to me on notice. Ms O'Neill: I will take that on notice.

**Answer**

*Fair Work Australia has provided the following response:*

An application for an unfair dismissal remedy was lodged on 24 August 2011 against a named respondent. The respondent lodged an objection to the application on the basis that the wrong respondent was named. The respondent declined to participate in conciliation and the matter was listed for a formal proceeding to deal with the respondent's objection.

A Member of FWA subsequently issued an order to amend the application to correct the identity of the respondent, with the consent of the new respondent. The amended respondent's representative requested a conciliation take place. FWA granted this request, however the applicant's representative did not consent to participate.

Participation in conciliation for s394 applications for an unfair dismissal remedy is voluntary. Fair Work Australia cannot compel parties to participate.

The matter was then listed for a formal proceeding to deal with the merits. On 6 March 2012 the applicant withdrew the application.