

Wage theft

Unlawful Underpayment of employees' remuneration

Dear Senate Committee,

Wage theft as I know it in the hospitality industry is at epidemic proportions and have rarely met an individual in my working life that has not been affected by wage theft and or super guarantee theft.

I say this with great authority as a commercial chef of 36 years' experience.

Just take a moment if 50% of your income and retirement was stolen from you, who would you turn to and you had been affectively made redundant for exposing the theft?

My current experience has been heard by QCAT mediation and now await a date to be heard by a small claims tribunal after I was offered \$2000 to settle a \$23915 wage theft and a \$6000 super theft.

I spent 8 months in this employment as a casual chef level 5 protected by the hospitality award 2010 discussing with the manager and owner on a monthly basis about their miss interpretation of the award and left emails and txt of what was owing for myself and the other employees until they reduced my working week from 70 hours down to 6 hours. This employer whom are solicitors that own this restaurant never paid weekend penalties, split shift allowance and thought a flat rate under the award pay amount is acceptable. My tenure at this establishment as a chef never ever had a break and never had a rostered day off for three months.

I complained to the Fair work Ombudsman 12/8/19 and returned an email with a two-step strategy with the final step being to go to small claims tribunal...seriously what is the point of these organizations that have no power or influence over a situation or complaint, a total waste of tax payers monies that a web site could have performed.

I have complained on the 12/8/19 to the ATO twice about nonpayment of super and still no super payment or a return of advice from the ATO.

I approached a solicitor whom wanted \$260 for the consult and would cost \$1500 for a letter of demand and that would end up in small claims anyhow and he could not help after that as the claim was too small.

So I wait for my QCAT Tribunal date that the mediator stated could be upwards of 12months and the pit falls of self-representation and the high possibilities of company bankruptcy before that date seems in my opinion to be unacceptable and again I will be the injured partie left unprotected and without justice. The company is trading while insolvent again it seems that the rules are in place but no one is enforcing them.

All these government agencies to protect us but I have seen little to no positive actions taken and only experienced posturing with little return for the cost of their existence.

The award is meant to be Minimum wage for Australians but in reality it's far from what hospitality employees are receiving, my estimate from my experience has been more like \$10 per hour worked no matter what day or time of year.

I was in a union for a number of years and they had helped on three separate occasions to settle issues that I had with three separate employers that had terminated my employment after discussions about pay issues and working standards. These settlements were a fraction of what was owed.

Even the Union had had enough of my constant issues with employers and began to have a slow response or no return to my enquiries for help, hence why I am no longer in that union.

It has become clear that the system and enforcement of the legislation need immediate amendments and if a resolution to an employee's grievance is not resolved within a suitable time frame then the employer should place significant funds in escrow to cover that grievance?

Conclusion:

Systemic wage theft across the hospitality industry and a total disregard to the Award and what it stands for. Most of the abuse is greed and some are survival for the short term but always at the expense of the lowest paid individuals. Individuals that do not have the resources time or energy to personally fight for their rights in the long term that it clearly will take.

Solution:

1. INDUSTRY AWARDS need to be stream lined and not so convoluted and designed by industry leaders that have gone through the ranks of employment.
2. Employers to be licensed and trained to have employees with 5 year reviews and audits or external independent HR department must be commissioned.
3. Licenses revoked for non-compliance and convictions and fines imposed
4. An ombudsman that has actual powers to act on complaints to its fruition and only appeals to go to courts with monies to be placed into escrow until resolved.
5. Wage and super protection by government insurance
6. Super contribution paid weekly or as your payroll states and your super account notifies the individual and authority of any anomalies.
7. Wage theft is wage theft and protection to small business under 15 employees should be revoked and employee intimidated bullied or threatened while in pursuit of their basic rights should be a criminal offence.

Thank you for your time and for the future protection of Australian work force.