

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Budget Estimates 2016 - 2017

Agency - Fair Work Commission

Department of Employment Question No. EMSQ16-000797

Senator Williams asked on 06 May 2016 on proof Hansard page 71

Question

FWC - RSRT - information given to witnesses

Senator WILLIAMS: Did the tribunal take any steps to inform those witnesses of their right to seek to be represented? When witnesses wanted to be represented, did the tribunal inform those witnesses of that?

Ms O'Neill: I would have to take that on notice.

Senator WILLIAMS: I understand some witnesses were told that if they did not attend the tribunal in person that they would face six months imprisonment, while their submission on the matter would be withdrawn. Was that a typical approach adopted by the tribunal when dealing with self-represented witnesses?

Senator CAMERON: Ha, ha. That is a bit—

Senator WILLIAMS: It is not a laughing matter, Senator Cameron.

Senator CAMERON: It is a laughing matter—

Senator WILLIAMS: No, it is not.

Senator CAMERON: because they do the same thing with the fair work and building commission.

Senator WILLIAMS: I will repeat the question, Ms O'Neill: I understand some witnesses were told that if they did not attend the tribunal in person that they would face six months imprisonment—we will just take that part of the question; are you aware that they could have faced six months in prison if they did not attend the tribunal?—or their submissions would be withdrawn.

Ms O'Neill: I would have to take on notice, I am afraid.

Answer

Did the tribunal take any steps to inform those witnesses of their right to seek to be represented? When witnesses wanted to be represented, did the tribunal inform those witnesses of that?

I understand some witnesses were told that if they did not attend the tribunal in person that they would face six months imprisonment, while their submission on the matter would be withdrawn. Was that a typical approach adopted by the tribunal when dealing with self-represented witnesses?

Witnesses for Road Safety Remuneration Tribunal (RSRT) hearings were informed of relevant sections of the repealed *Road Safety Remuneration Act 2012* (Cth) (RSR Act). Those sections included (at s.91) provisions which detailed how a person may have been represented in a matter before the RSRT. Witnesses were also advised of material on the RSRT's website which provided information about hearings and conferences including in relation to representation.

In relation to offences for failing to attend before the RSRT, section 89 of the repealed *Road Safety Remuneration Act 2012* (Cth) provided that:

'Required to attend

(1) A person commits an offence if:

- (a) the person has been required to attend before the Tribunal; and
- (b) the person fails to attend as required.

Penalty: Imprisonment for 6 months.'