

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Budget Estimates 2017 - 2018

Agency - Fair Work Ombudsman

Department of Employment Question No. EMSQ17-004162

Senator Cameron asked on 30 May 2017 on proof Hansard page 61

Question

FWO - Apprentices and trainees - underpayment matters before the courts

Senator CAMERON: Ms James, here we are. Every time you do a national audit, you have got increasing numbers of apprentices who are not being paid according to the law. Under Senator Cash's watch, you have got an increase in false records. When do you start to make an example of some of these people instead of coming after the individual union members? Senator Cash: Chair, should we take most of that as a comment by Senator Cameron and leave it at that?

Senator CAMERON: No, we won't. It is a question.

Ms James: At this point in time, I would need to verify the exact number, it is probably in the realm of 90 matters before the court involving a range of conduct. Overwhelmingly, not exclusively, it would be employers facing court action for exactly the kind of conduct you describe.

Senator CAMERON: For underpaying apprentices?

Ms James: For underpaying workers.

Senator CAMERON: No, I am asking about underpayment of apprentices.

Ms James: I would need to take on notice matters specifically involving apprentices, but we do take enforcement action involving vulnerable workers, including apprentices. I will take on notice whether any of those 90-odd matters currently involve an apprentice. I recall reading, in recent memory, media releases involving litigation—

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Senator CAMERON: So you have apprentices in Tasmanian businesses, 34 per cent are underpaid, and you have got 15 actions nationally over how long?

Ms Webster: I do not actually have the timing around that—

Senator CAMERON: Could you take that on notice and let me know?

Ms Webster: I am able to do that.

Answer

As at 31 March 2017, the Fair Work Ombudsman (FWO) had 97 matters before the Court. Four of these matters involve apprentices.

Since 1 July 2009, the FWO has filed 35 litigations involving employees undertaking an apprenticeship or traineeship. This includes the four matters that are currently before the Court.

Of the four matters before the Court, two involve employees who were misclassified as apprentices/trainees:

- one involves an employee misclassified as a plumbing apprentice, who was paid as an apprentice but not registered and therefore entitled to non-apprentice rates of pay;
- another involves employees misclassified as hair and beauty trainees who were not undertaking a registered traineeship and therefore entitled to non-training rates of pay.

The other two matters involve apprentices in the building and construction industry and a trainee in the childcare sector.