

EDUCATIONAL SERVICES (POST-SECONDARY EDUCATION) AWARD 2010

Individual submission regarding Casual Rates

Introduction

This submission seeks the removal of the “Daily Rate” from the Award

Background

1. The writer is currently a VET Trainer (“Teacher” as defined by the award) and a Training co-ordinator responsible for around 30 casual trainers. Previously he has held the roles of Director of Training, Director of Operations and Course Co-ordinator for Registered Training Organisations. This experience has extended over the last 15 years prior to which he held executive and management positions in the technology industry.
2. This submission is in relation to the Casual Rates of pay and Hours of Work sections of the award.
 - a. Clause 10.4 defines a casual employee,
 - b. Clause 14.5 defines rates of pay, and
 - c. 21.3 Ordinary hours of work—teachers and tutor/instructors and specifically 21.3(c).
3. The award currently has a construct for casual employees called the “Daily Rate”.
“A teacher and a tutor/instructor will be paid a daily rate except where the engagement is for less than five hours when payment will be at the hourly rate” The “Daily Rate” applies after 5 hours and is capped.
4. This definition appears to allow an employer to demand that a teacher work 7 or 8 hours and only be paid for 5 hours. Perhaps this clause allows for an employer to expect a teacher to work for even longer hours.
5. There is a further definition in 21.3(c) that the hours of work have a multiplier of 1.5 times contact hours. A contact hour is providing face to face teaching. Thus a teacher could be paid 5 hours for their ordinary hours being 7.5. or 11 hours of work where they are employed for 8 contact hours.
6. An employer applying the daily rate is effectively paying 66% the casual hourly rate where a teacher works for 7.5 hours and significantly less where more hours are worked.

Casualization of the workforce

1. In the years since the Modern Award there has been a significant shift in the nature of work in the Vocational and ELICOS areas especially and across the industry in general.
2. It is possible that the “Daily Rate” was introduced to reduce this trend or to force employers to offer more permanent roles. It has not done so.
3. Employers seek staffing flexibility to meet the volatility of demand. They want the ability to add and remove staff almost on a daily basis.

4. Employees seek the ability to vary hours to suit changing commitments and variations in lifestyle.
5. Casual work continues its relentless march into most aspects of work

Research

1. The writer has researched submissions at the Australian Industrial Relations Commission website until 2010 ([AIRC website](#)) as well as examined amendments and decisions in the award and cannot find any reference supporting the "Daily Rate".
2. The writer believes that by applying the "Daily Rate" that employers may be gaining unpaid work and that employees are entitled to the minimum legal rate which is the hourly rate for each hour worked.
3. The IEU has also submitted that this clause be removed

Submission

The writer submits that:

- The "Daily Rate" construct is now archaic given the nature of work casualization.
- Application of the "Daily Rate" means casual employees could be forced to work for many additional hours at an overall reduced rate.
- There appears no justification for the "Daily Rate" to be in the award.
- "Fair pay for fair work" is important in the Australian workplace and that employees believe that there is an underlying principle of being paid for each hour that is worked. To apply the "Daily Rate" is contrary to this principle.

The "Daily Rate" should be removed from the award and employees paid at the hourly rate for each hour they work.

Thank you for allowing me to put forward this submission. I would welcome any discussion that you may wish to have regarding the detail of this submission

<signed>

David Tulloh
VET Trainer and Training Co-ordinator

████████████████████
████████████████████
████████████████████
████████████████████
████████████████████