## **Enquiry**

## 2702696

Enquiry No.	Sta	atus	Status Reason		Total Time Open (days)
2702696 ENQUIRY	Re	solved	Advice Provided	H Siloli	1
No of employees	1,000	Channel	Inbound Phone	EMPLOYEE DETAILS	
Enquiry Type Level 1	<b>Entitlements</b>	State	Vic	Occupation	
Enquiry Type Level 2	Meal Breaks	Matter Number (Nexus)		Main Duties	-
			VO 0		
		Matter ID number (Titan)			
Awaiting Accept/Decline	No	Related Enquiry	9 6901	Employee Status	
			.0)	Is apprentice or trainee?	Neither
Created On	27/05/2022 12:04 PM	60 (1			
		2		<b>Employment start date</b>	
		(0), 0			
CUSTOMER/ORGANISATI	ON	0		- Employment end date	
Customer	Am	Legal Name			
	× 5				
Enquirer Type	Employer	7110			
EMPLOYEE LOCATION					
Suburb	20	Postcode			
State	<b>Y</b>				
			-		

NOMINATED TO ACT ON CUSTOME	R'S BEHALF			Industry Level 1	Information Media and
Full Name				Industry Level 2	Telecommunications  Publishing (except Internet and Music Publishing)
Phone		Email		Industry Level 3	Software Publishing
ATTEND FWO OFFICE				Industry Level 4	Software Publishing
Can attend FWO office (if required)	No	Interpreter Required	No	Instrument Type	Modern Award
FWO Office		Language	11	Employer Association	
ATIS Phone number: S.22	Infoline: Account	Customer Solutions: Account nur number 5, 22	mber <mark>S.22</mark> Access	Pre-Post Reform	
	s.22	<b>\(\sigma\)</b>	0,0	<b>Bound To Award</b>	
	Access number S.22	13/11	John		

#### **ENQUIRY DETAILS**

### DESCRIPTION ACTIONS & SOLUTIONS

**Background information:** 

- Does a paid break between ordinary hours of work and overtime count towards the calculation of ordinary hours of work?
- Non- vehicle manufacturing

ROP:

LOS:

Required qualifications/relevant experience:

Main nature of the organisation:

**ENQUIRY TREATMENT & SUMMARY** 

Award/EBA: MA000010: Manufacturing and Associated Industries and Occupations Award 2020

**ORGANISATION DETAILS** 

Advice provided:

32.11 - rest breaks in overtime:

- (d) Where overtime is to be worked immediately after the completion of ordinary hours on a day or shift and the period of overtime is to be more than 1.5 hours, an employee, before starting the overtime, is entitled to a rest break of 20 minutes to be paid at the rate of pay applying to the employee immediately prior to the scheduled meal break.
- --> the 20 mins counts towards ordinary hours (L2).

**Team Treatment** 

Mediation Conducted No

Recommended Treatment

**Forward Reason** 

**Assessment Summary** 

FWO Outcome Advice Provided

s.22 Irrelevant Information

#### **DETAILS FOR KNOWLEDGE TEAM**

#### DETAILS FOR KNOWLEDGE TEAM

**Background Information** 

Specific questions/issue to be addressed

**Recommending Team Lead** 

Legislation/ Indstrial instruments considered

**Quality Coach/TL Opinion** 

#### **MONIES RECOVERED**

Total (all non-confidential payments)

Total employees paid relating to enquiry

Payment Type	Confidential	Amount	Created On	Created By	Payment Date	No. of Employee	
No Money Recovered records are available in this view.							
0 - 0 of 0 (0 selected)		20.				Page 1	

#### **RELATED OBJECTS**

Customer	Link Type URL		Recd <b>⁄inoveledge Ob</b> ject Title Link	
	No Link records are available in this view.		No Linked Knowledge Object records are av	vailable in this view.
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#### **NOTES AND INTERACTIONS**

NOTES AND ACTIVITIES SPECIAL CATEGORIES

Name		Owner
EMAIL ADDRESSES	No Special Catego	ry records are available in this view.
0 - Œutaŭ (@selector):	Name	Page 1
	-40	No Enquiry Email Link records are availa
0 - 0 of 0 (0 selected)	0, 0	Page 1

#### **REQUEST FOR ASSISTANCE**

ADDITIONAL EMPLOYEE DETAILS	
Employee Received Paid Leave	
Employee's Date of Birth	
Is Employee an Intern	
Working as an Independent Contractor	
Contractor or Employee	CO. 11/00
PERMISSION TO CONTACT THE EMPLO	YER OOO
Privacy Consent	(6) 11/1
Confidential No.	4,5 96,
Permission to Contact Employer	US, MILL
Full Name	
Phone	

#### Issue discussed with the Employer

Reason for not discussing the issue

Employer's Response

#### Are Other Employees affected

Pay Rate (Before tax) Currency

Australi an Dollar

Name	Description	Created
No Supporting Evi	dence records are available in this vie	w.
0 - 0 of 0 (0 selected)	I	Page 1
Name	COI Type	
Category No Classification of Issues re	ecords are available in this view.	
No Topic records a	re available in this view.	
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Email 0 - 0 of 0 (0 selected) Page 1

CASE DETAILS

MESSAGES

Is Suitable For Case Study No

Case Study Reason

Is Suitable For Follow Up No

CONSENT TO MEDIATION

Employer/Employee Contacted

OFFICE ADDRESS

Office

Consent to Mediation

Name

No Memorandum Of Understanding records are available in this view.

0 - 0 of 0 (0 selected)

Page 1

Name
Official Name
Alpha...

No Country/Region records are available in this view.

0 - 0 of 0 (0 selected)

Page 1

Name

No Educational Assistance records are available in this view.

#### **MEDIATION**

Non-Monetary Outcomes TOS Total Time Spent (minutes) 120

					*	
Subject	Status Reason	Date Created	Confirmed Date	Closed Date	Booking Type	Employee
				No Booking Activity	records are available	e in this view.
0 - 0 of 0 (0 selected)				0)		Page 1
Title	Owner	Created On				
Yo	u do not have permission to access these	records. Contact you	Microsoft Dynamics CRM	l administrator.		
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			M. M.			
LEGAL ADVICE PROGRAM		• (	(O)			
What is the issue that requires tailored leg	gal advice (as per the assessment criterion wing PACSR link Workplace Legal Advice (as per the assessment criterion)	a)?				
For current assessment criteria, see the follo	wing PACSR link Workplace Legal Advice	Program Program				
		7/00				
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	70	, 60,				
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Referral Contact	10, 70	Legal Advid	e ID number			
	10, 11,	Legal Advic				
	6					
EMPLOYER ADVISORY SERVICE						
Eligible for EAS?	61,10	EAS Source				
Eligible for EAS? EAS Request Details		EAS Assess	ment			

Suitable for EAS Case Study No

TLO Advice

**EAS Case Study Reason** 

Morkondilon FWO Legal Advice

Document Name	Document ID Document Abation	Legal Firm S	Status I
	No Document Link records are available in this view.	No ELP Request records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1 0 - 0 of 0 (0 selected)	Page 1	

#### **INTRINSICS**

**Avaya Contact ID** 

Medium to Large Business

**Enquirer ABN** 

PureCloud ID

Intrinsic Phone

## **Enquiry**

## 2794846

Enquiry No. <b>2794846</b>		Status Resolved	Status Reason  Advice Provided	0/1	Total Time Open (days) 10
2734040		resolved	Advice Frovided	1 110.	
ENQUIRY			20		
No of employees	1,000	Channel	Inbound Phone	EMPLOYEE DETAILS	
Enquiry Type Level 1	<b>Entitlements</b>	State	Vic	Occupation	
Enquiry Type Level 2	Hours of Work	Matter Number (Nexus)	ve of	Main Duties	
		Matter ID number (Titan)	11, 10	_	
Awaiting Accept/Decline	No	Related Enquiry	9 90,	Employee Status	
Created On	24/08/2022 9:11 AM		0	Is apprentice or trainee?	Neither
		Se A		Employment start date	
CUSTOMER/ORGANISATION	ON	Slo We		– Employment end date	
Customer	AN ENGLISH C	Legal Name	<u> </u>	. ,	
Enquirer Type	Employer representative	Jugo			
EMPLOYEE LOCATION					
Suburb	200	Postcode			
State					

NOMINATED TO ACT ON CUSTOMER'S	BEHALF		Industry Level 1	Information Media and Telecommunications
Full Name			Industry Level 2	Publishing (except Internet and Music Publishing)
Phone		Email	Industry Level 3	a Software Publishing
ATTEND FWO OFFICE			Industry Level 4	Software Publishing
Can attend FWO office (if required) No		Interpreter Required No	Instrument Type	Modern Award
FWO Office		Language	Employer Association	
ATIS Phone numbes.22	Infoline: Account	Customer Solutions: Account number S. 22 Access number S.	Pre-Post Reform	
	number S. 22 Access		Bound To Award	
	number <mark>S</mark> .	104 401		

#### **ENQUIRY DETAILS**

DESCRIPTION ACTIONS & SOLUTIONS

**OBO** employer

Qs about Retail Award MA04

Concerned about grey area, clause 15.6 (i)

If I choose the option of 5 days of 7.6 hrs. If the ees are f-t, 20 days in a month. But if larger org, only 19 days in a months.

e.g. If I have rotating day off in 4 weeks.

If I give them the 7.6 hours,

L2 took over: MA 04



is looking for clarification around hours in clause 15.6 (i),

-called regarding 15.6 in its entirety previously, was advised that the 20th day is actually paid as its banked-RDO

**ORGANISATION DETAILS** 

- -has no option for a fixed day off, has been previously advised by FWO that if 15.6 (i) applies and EE works on the 20th day then OT applies because EE working on RDO
- -discussed 15.6 (j) applying as an agreement contrary to (i), customer deemed this insufficient. Discussed potentially entering IFA with an EE to vary arrangements for when work is performed, however customer believes award interpretation makes it impossible for

If rostered as per 15.6 (i) then they wouldn't be able to provide 38 hours per week and that EE would then not be FT? You would have to roster the 20th day in order to provide the hours

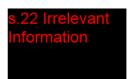
-someone previously explained how that clause operates but customer believes has been given incorrect advice by FWO and that interpretations of the award are incorrect

I think she was saying that she strictly wanted them to work 7.6 hours/ 20 days and that (i) would mean that they would have to work more over the 19 days to have the 20th day off. That's when she said that the business actually would want them to work on the accrued RDO and because it would be considered OT, or they would then to pay OT for the extra on the other 19 days and she didn't want to trigger OT and pay OT.

**Mediation Conducted** No

ER's in Aus to EE FT EE's

#### **ENQUIRY TREATMENT & SUMMARY**



#### **DETAILS FOR KNOWLEDGE TEAM**

#### MONIES RECOVERED

RDO and because it would be considered OT, or they would then to pay OT for the extra on the other 19 days and she didn't want to trigger OT and pay OT.	Forward Reason	Callback to Client Required		
ENQUIRY TREATMENT & SUMMARY	_	11 .:.0		
Team Treatment	FWO Outcome	Advice Provided		
Recommended Treatment		.0170		
Assessment Summary  s.22 Irrelevant Information	Show			
DETAILS FOR KNOWLEDGE TEAM  DETAILS FOR KNOWLEDGE TEAM	30			
Background Information	Legislation/ Indstria	l instruments considered		
Specific questions/issue to be addressed	Quality Coach/TL Op			
Background Information Specific questions/issue to be addressed Recommending Team Lead  MONIES RECOVERED				
MONIES RECOVERED				
Total (all non-confidential payments)	Total employees paid	relating to enquiry		
Payment Type Confidential Amount Creat	ted On Cre	ated By	Payment Date	No. of Employee
No Money Recover	ed records are available	in this view.		

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#### RELATED OBJECTS

Customer	Link Type URL	Recd/inaveledge Object Title
	No Link records are available in this view.	No Linked Knowledge Object records are available in this view.
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#### **NOTES AND INTERACTIONS**

NOTES AND ACTIVITIES SPECIAL CATEGORIES

Title: Your reference: KNO-039910

Executive Description: OHOW and O/T under MA004

Outcome Details: Hi \$.22

Cl 15.6 of MA004 says:

- (h) The options are:
- (i) working 5 days of 7 hours and 36 minutes each per week ...
- (j) In an establishment at which at least 15 employees are employed per week on a regular basis, the employer must not roster an employee to work ordinary hours on more than 19 days per 4 week cycle.
- (j) Clause 15.6(i) is subject to ANY AGREEMENT to the contrary between the employer and an individual employee.

Because clause 15.6(j) provides that ordinary hours cannot be worked on more than 19 days in each four-week cycle, if the employer required the employee to work hours on more than 19 days in each four-week cycle (without 'any agreement' referred to in para (j)) those hours could not be characterised as 'ordinary' hours for the purpose of the award.

Therefore, in our view hours worked on more than 19 days in each four-week cycle (without 'any agreement') are in excess of/outside the roster conditions in clause 15.6.

Consequently, such hours would be overtime and paid as overtime as per cl.21.2(a) if an employee was to work on any days beyond the 19th day in a four-week cycle.



Name	Owner
6.0 8/11.	No Special Category records are available in this view.
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#### **EMAIL ADDRESSES**

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)	Email Source Type	Name	
		No Enquiry Email Link records are a	/ailak
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#### **REQUEST FOR ASSISTANCE** Issue discussed with the Employer **ADDITIONAL EMPLOYEE DETAILS Employee Received Paid Leave** Reason for not discussing the issue **Employee's Date of Birth Employer's Response** Is Employee an Intern Working as an Independent Are Other Employees affected Contractor **Contractor or Employee** Pay Rate (Before tax) Currency Australi an PERMISSION TO CONTACT THE EMPLOYER Dollar **Privacy Consent** Description Created ( Name No Supporting Evidence records are available in this view. Confidential No ocuments inder the property of 0 - 0 of 0 (0 selected) Page 1 **Permission to Contact Employer** Name COI Type **Full Name** No Classification of Issues records are available in this view. Phone 0 - 0 of 0 (0 selected) Page 1 **Email** Topic Category No Topic records are available in this view. **MESSAGES** 0 - 0 of 0 (0 selected) Page 1

**CASE DETAILS** 

Is Suitable For Case Study No

**Case Study Reason** 

Is Suitable For Follow Up No

**CONSENT TO MEDIATION** 

Employer/Employee Contacted

**OFFICE ADDRESS** 

Consent to Mediation

#### Office

Name

No Memorandum Of Understanding records are available in this view.

0 - 0 of 0 (0 selected)

Page 1

Name Official Name Alpha...

No Country/Region records are available in this view.

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Page 1

Name

No Educational Assistance records are available in this view.

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Page 1

#### **MEDIATION**

**Non-Monetary Outcomes** 

TOS

s.22 irrelevant information

Subject Status Reason Date Created Confirmed Date Closed Date Booking Type Employe
--

No Booking Activity records are available in this view.

0 - 0 of 0 (0 selected)		Page 1
Title	Owner Created On	9
	You do not have permission to access these records. Contact your Microsoft Dynamics CRM adminis	trator.
0 - 0 (0 selected)		Page 1

#### **LEGAL ADVICE PROGRAM**

What is the issue that requires tailored legal advice (as per the assessment criteria)?

For current assessment criteria, see the following PACSR link Workplace Legal Advice Program

Referral Contact Legal Advice ID number

**EMPLOYER ADVISORY SERVICE** 

Eligible for EAS? EAS Source

EAS Request Details EAS Assessment

Suitable for EAS Case Study No

TLO Advice

**EAS Case Study Reason** 

FWO Legal Advice

Document Name	Document ID	Docu <b>iride Refotation</b>	Legal Firm	Status
	No Document Link records are available i	n this view.	No ELP Request records are available in this vie	w.
0 - 0 of 0 (0 selected)	Page 1	0 - 0 of 0 (0 selected)		Page 1

#### **INTRINSICS**

Avaya Contact ID Skillset Medium to Large Business Enquirer ABN

PureCloud ID

s.22 Irrelevant nformation

**Intrinsic Phone** 



View Customer

Search Custome

Edit Custome

Register Customer

Reset Password

View Organisation

ombudsman. Ombudsman.

Search Organisation

Search Employer View Employe

# **Contacted TLO for clarification - 11:30...**

Priority Due Activity Status Owner
Normal Completed S.22

**TASK** 

Subject Contacted TLO for clarification - 11:30 AM

Created On 26/08/2022 11:35 AM

Description

Awaiting further response.

Regarding 279484

## **Your reference: KNO-039792**

Activity Status Priority Due Completed Normal



#### **TASK**

Subject Your reference: KNO-039792

**Created On** 31/08/2022 2:44 PM

#### Description

Executive Description: Retail Award - whether under clause 15.6 (i) a paid RDO is provided, if worked O/T payable Outcome Details: As discussed overtime would be payable on the basis of clause 21.2 (a) which states: 'An employer must pay a full-time employee for hours worked in excess of the ordinary hours of work or outside the span of hours (excluding shiftwork) or outside the roster conditions prescribed in clause 15'. Noting that the relevant obligations are contained in clause 15.6(i). (PACT provides some scenarios for when O/T applies but indicates that this is not not exhaustive).

**Knowledge Record** 

Fair Work Ombudsman

Regarding

# Text message sent - 3:25 PM AEST

Priority Due Activity Stat

Normal Completed

Owner s.22

**TASK** 

Subject Text message sent - 3:25 PM AEST

Created On 31/08/2022 3:25 PM

Description

The Fair Work Ombudsman will be calling soon regarding your enquiry.

**Regarding 2794846** 

# Called customer, please refer to detaile...

Priority Due Activity Status Owne
Normal Completed

#### **TASK**

**Subject** Called customer, please refer to detailed notes below.

Created On 31/08/2022 4:28 PM

#### Description

Contacted customer to discuss enquiry. Went through previous response from TLO, confirmed if EE was to work more than the 19 days in 4 week cycle under Clause 15.6(h) then overtime would apply. This is because the OT clause specifies that it applies for time worked outside the rostering conditions in Clause 15.6.

Customer provided feedback about previous call and believed there was misunderstanding about what her actual question was.

Went through customer's question with her again to confirm understanding:

- When you look at Clause 15.6, this sets out different methods of arranging ordinary hours for full-time employees. In Clause 15.6(f) it sets out that you may adopt any of the options mentioned in clause 15.6(h) for working the average of 38 hours per week.
- Clause 15.6(h)(i) says that one of the options is:
- (i) working 5 days of 7 hours and 36 minutes each per week;
- Further in this clause 15.6(i) states: In an establishment at which at least 15 employees are employed per week on a regular basis, the employer must not roster an employee to work ordinary hours on more than 19 days per 4 week cycle.
- The customer wants to clarify whether 15.6(i) only operates or applies where the business has arranged ordinary hours to be averaged over a 4 week cycle (i.e. where they are being rostered to have the rostered day off). It would make sense that this is intended only to apply for situations where averaging is being utilised.
- If not, then this conflicts with Clause 15.6(h)(i) which specifically says that EE's can be rostered to work 5-day weeks with 7 hours and 36 mins worked each day.
- If Clause 15.6(i) is intended to apply broadly, then how can EE's be rostered in the manner outlined in 15.6(h)(i).
- If the business is simply operating a weekly roster system, with NO averaging of hours (e.g. standard 'office hours' M-F etc)

then can the employees be rostered to work 5 days per week, 7 hours 36 mins per day, without Clause 15.6(i) applying?

Advised customer we would need to confirm advice after clarifying her enquiry, this will need to be checked with TLO again. Confirmed we would conduct further research and contact her as soon as we have a response.

Regarding

2794846

# Text message sent to customer at 11:2...

Priority Due Activity Status Owner

Normal Completed S.22

**TASK** 

Subject Text message sent to customer at 11:23am

Created On 2/09/2022 11:25 AM

Description

The Fiar Work Ombudsman will be calling soon regarding your recent enquiry.

Regarding 2794846

#### **Phone Call**

# Called customer at 11:28am AEST. Advi...

Priority		Due		Sta	tus	$O_{I_{I_{I_{I_{I_{I_{I_{I_{I_{I_{I_{I_{I_$	Owner
Normal				Cor	mpleted	.01.	<b>8</b> .22
DI 6.11					Olle		
Phone Call							
Subject	Called customer at 11	:28am AEST. Advi	sed customer as per T	LO's advice in KNO-	039910 Where	Regarding	<b>2794846</b>
Call From	\$.22	I		40	II INO	Duration	
Call To	*=			NO.	O <sup>N</sup>	Callback	No
Skillset			Direction	Outgoing		Created On	2/09/2022 11:50 AM
Phone Number			Avaya Contact ID	3600			
			Pure Cloud ID	KO.			
Communication	Phone Call		Communication	External			
Туре		(0)	Source				
Description		· Co					

Called customer at 11:28am AEST.

Advised customer as per TLO's advice in KNO-039910.

- Where 15.6(i) applies based on the size of the business, (j) allows the ER and individual EE to agree to arrange hours so that the EE is not limited to 19 days per 4 week cycle.
- This allows them to implement, if they wish to, other methods mentioned in 15.6(h) such as working 5 days of 7 hours 36 minutes.

The customer stated:

"I don't think the intention of the award is to put this onus on the business."

The customer also stated there is an "over reliance on the agreement clauses by Fair Work.'

I explained that FWO can only advise on the award as it is, we cannot alter it. The FWC has that role.

The customer stated they understood.

Email: Pag(1A-41804) 122

#### **Email**



Priority Due Normal

Status Reason
Sent

wner s.22

#### **Email**

From Fair Work Ombudsman (Do Not Reply email)

То

Cc

Bcc

Subject

**Communication** Ex

Source

External

Created On

24/10/2022 12:57 PM

#### **Attachments**

File Name	File Size (Bytes)	
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0 - 0 of 0 (0 selected)	Ch,	Page 1

Dear

Email: 532855486 Pag(1A-d1804) 123

Thank you for your patience with your enquiry regarding what, "without loss of pay" means for a shiftworker not working on a public holiday under the Retail Award.

We have reviewed our web content and will update it so that it is consistent with the FWC decision, [2021] FWCA 3785, which includes the following at paragraph 30 in relation to the Retail Award: "An employee is entitled to payment of public holiday penalties if they work the public holiday, and shift penalties if they do not. Shift work is performed during ordinary hours of work and shift penalties form part of a shiftworkers' ordinary rate of pay."

I trust this information is of assistance.

Kind regards,

Fair Work Ombudsman

Regarding 2546407

## **Enquiry**

# 2861584

Enquiry No.		Status	Status Reason	0,1,0	Total Time Open (days)
2861584		Resolved	Advice Provided	L ::(0)	1
ENQUIRY No of employees	1,000	Channel	My Account	EMPLOYEE DETAILS	
Enquiry Type Level 1	<b>Entitlements</b>	State	Multi-state	Occupation	
Enquiry Type Level 2	Overtime	Matter Number (Nexus)	ve of	Main Duties	NA
		Matter ID number (Titan)	11, 6		
Awaiting Accept/Decline	No	Related Enquiry	9 90,	Employee Status	
Created On	2/11/2022 10:46 AM	-60	0	Is apprentice or trainee?	Neither
	7.7,2	S K		Employment start date	
CUSTOMER/ORGANISATION	ON	SIO THE		- Employment end date	
Customer	THE SECOND	Legal Name		- Linployment end date	
Enquirer Type	Employer representative	110			
	Me.	<i>O</i> ,			
EMPLOYEE LOCATION					
Suburb	700	Postcode			
State					

#### Information Media and **Industry Level 1** NOMINATED TO ACT ON CUSTOMER'S BEHALF Telecommunications **Full Name** Publishing (except Internet and **Industry Level 2** Music Publishing) Phone **Email Software Publishing Industry Level 3 Software Publishing Industry Level 4 ATTEND FWO OFFICE** Can attend FWO office (if required) No **Interpreter Required** No **Instrument Type** Modern Award **FWO Office** Language **Employer Association** ATIS Phone number: \$.22 Infoline: **Pre-Post Reform** Account **Bound To Award** Access

**ORGANISATION DETAILS** 

#### **ENQUIRY DETAILS**

DESCRIPTION	ACTIONS & SOLUTIONS
What payment is required when a employee (full time or part time or casual) works overtime on a public holiday under the hospitality award	e Hi
NA	Thank you for your enquiry.
ENQUIRY TREATMENT & SUMMARY	It appears you are seeking information on overtime.
Team Treatment	From the information provided, you are looking at the Hospitality Industry (General) Award. Please find this award linked here: https://awardviewer.fwo.gov.au/award/show/MA000009
Recommended Advice Treatment	As per Clause 29.3 of the award, in the situation where more than one penalty rate would be payable for hours worked at a particular time, the employer must pay the employee the

#### **Assessment Summary**

Automated Assessment conducted on Wednesday, 2 November 2022. (ver. 18.11.29)



Level 2

(b) Subject to clause 29.3(c), where more than one penalty rate would be payable for hours worked at a particular time, the employer must pay the employee the highest applicable penalty rate, but no other applicable penalty rate is payable.

if public holiday rate is higher than overtime rate then that rate would apply.

highest applicable penalty rate, but no other applicable penalty rate is payable. This means that if the public holiday rate is higher than what the overtime rate would have been on this day, only the public holiday rate will apply.

If you have any follow up questions, please call us on 13 13 94 between the hours of Monday to Friday 8am to 5:30pm, or submit a new My Account enquiry where one of our team will be very happy to discuss further.

Regards,



Fair Work Ombudsman

**Mediation Conducted** 

**Forward Reason** 

**FWO Outcome** 

Advice Provided

#### **DETAILS FOR KNOWLEDGE TEAM**

#### **MONIES RECOVERED**

			FVVO Outco	Advice Provided		
			111			
DETAILS FOR KNOWLED	GE TEAM	· ·	4 401			
DETAILS FOR KNOWLEDGE TEAM	M	A	50.			
Background Information		600	Legislation	/ Indstrial instruments consid	ered	
Specific questions/issue to be ac	ldressed	0,5	Quality Co	ach/TL Opinion		
Recommending Team Lead		S, 'S				
	(0)					
MONIES RECOVERED						
Total (all non-confidential paym	ents)	10.	Total emplo	yees paid relating to enquiry		
		<b>O</b> *				
Payment Type	Confidential	Amount	Created On	Created By	Payment Date	No. of Employee
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#### **RELATED OBJECTS**

Customer	Link Type	URL	Recot/moveledge Object Title Link	
	External	https://www.fairwork.gov	2/11/2022 10:46 AMLinked Knowledge Object records are a	vailable in this view.
	External	https://www.fairwork.gov	o - 8/31/8082316:46.6M	Page 1
	External	https://www.fairwork.gov	2/11/2022 10:48 AM	
1 - 3 of 4 (0 selected)		Page 1	14 xilo	

#### **NOTES AND INTERACTIONS**

NOTES AND ACTIVITIES SPECIAL CATEGORIES

Title: Incomplete MyAccount Enquiry has been set to Draft

Incomplete MyAccount Enquiry has been set to Draft Created On: 2/11/2022 10:46 AM Modified On: 2/11/2022 10:46 AM

Service CSSWebUser 2/11/2022 10:46 AM

Name	Owner
0	No Special Category records are available in this view.
0 - 0 of 0 (0 selected)	Page 1

#### **EMAIL ADDRESSES**

Email Source Type	Name	
	No Enquiry Email Link records are	e availak
0 - 0 of 0 (0 selected)	Page 1	

#### **REQUEST FOR ASSISTANCE**

ADDITIONAL EMPLOYEE DETAILS

Issue discussed with the Employer

Employee Received Paid Leave No Reason for not discussing the issue

Employee's Date of Birth Employer's Response

Is Employee an Intern No

Working as an Independent Contractor	No	Are Other Employees affe	cted	
Contractor or Employee		Pay Rate (Before tax)	Currency	
PERMISSION TO CONTACT THE	EMPLOYER	- Name	Description	Created
Privacy Consent			No Supporting Evidence records are available in this	view.
Confidential	No	0 - 0 of 0 (0 selected)		Page 1
Permission to Contact Employer		Name	COI Type	
Full Name		No Classif	ication of Issues records are available in this view.	
Phone		0 - 0 of 0 (0 selected)		Page 1
Email		Category	Topic  No Topic records are available in this view.	
MESSAGES	70%	0 - 0 of 0 (0 selected)		Page 1
	60/10	CASE DETAILS		
		Is Suitable For Case Study	No	
	(S) HING	Case Study Reason		
	Silver in der ihe Files	Is Suitable For Follow Up	No	
OFFICE ADDRESS		_ CONSENT TO MEDIATION		
Office		Employer/Employee Conta	acted	
		Consent to Mediation		

Name			
No N	Memorandum Of Understan	ding records are available in	this view.
0 - 0 of 0 (0 se	elected)		Page 1
Name	Official Name	Alpha	
Name	No Country/Region rec	ords are available in this view	
MEDIARION		records are available in this v	iew. Page 1
Non-Monetary	Outcomes	TOS	Page 1

onfirmed Date	Closed Date	Booking Type	Employee I
10,	No Booking Activity	records are available i	n this view.
			Page 1

120

Page 1

Total Time Spent (minutes)

Title	Owner Created On
	You do not have permission to access these records. Contact your Microsoft Dynamics CRM administrator.

Date Created

Status Reason

#### **LEGAL ADVICE PROGRAM**

Subject

0 - 0 of 0 (0 selected)

0 - 0 (0 selected)

What is the issue that requires tailored legal advice (as per the assessment criteria)?

For current assessment criteria, see the following PACSR link Workplace Legal Advice Program

#### **EMPLOYER ADVISORY SERVICE**

Eligible for EAS? EAS Source

EAS Request Details EAS Assessment

Suitable for EAS Case Study No

TLO Advice

**EAS Case Study Reason** 

FWO Legal Advice

Document Name		Document ID	Docu <b>line Refora</b> tion	Legal Firm	Status
	ing.	No Document Link records are available	in this view.	No ELP Request records are available in this view.	
0 - 0 of 0 (0 selected)	C)),	Page 1	0 - 0 of 0 (0 selected)	Pag	ge 1

#### INTRINSICS

Avaya Contact ID

PureCloud ID

S.22 Irrelevant Information

View Customer

Search Customer

Search Customer

Search Employer

View Employer

View Employer

View Employer

Skillset

MyAccount

Enquirer ABN

View Organisation

Search Organisation

## **Enquiry**

# 2861602

Enquiry No.		atus		Status Reason	0), 0	Total Time Open (days)
2861602	Re	solved		Advice Provided	1.0	1
ENQUIRY				40		
No of employees	1,000	Channel	My Account	11.	EMPLOYEE DETAILS	
Enquiry Type Level 1	a Entitlements	State	Multi-state	2 16	Occupation	
1. 7 71.				,0, ///		
Enquiry Type Level 2	Penalty Rates	Matter Number (Nexus)	0)	O)	Main Duties	NA
		Matter ID number (Titan)	The same			
		6	02		<b>Employee Status</b>	Unsure
Awaiting Accept/Decline	No	Related Enquiry	, 60,		. ,	
	2 44 42 22 24 24 24	20	.0		Is apprentice or trainee?	Neither
Created On	2/11/2022 10:51 AM	35				
		. 0.0			Employment start date	
CUSTOMER/ORGANISATI	ON	SIO MO			- Employment end date	
Customer	An .	Legal Name			Linployment end date	
		76,				
Enquirer Type	Employer representative	70				
	20,1					
EMPLOYEE LOCATION						
Suburb		Postcode				
State	<b>Y</b>					

#### Information Media and **Industry Level 1** NOMINATED TO ACT ON CUSTOMER'S BEHALF Telecommunications **Full Name** Publishing (except Internet and **Industry Level 2** Music Publishing) Phone **Email Software Publishing Industry Level 3 Software Publishing Industry Level 4 ATTEND FWO OFFICE** Can attend FWO office (if required) No **Interpreter Required** No **Instrument Type** Modern Award **FWO Office** Language **Employer Association** Ta pir ATIS Phone number: \$.22 Infoline: **Pre-Post Reform** Account **Bound To Award** Access

**ORGANISATION DETAILS** 

#### **ENQUIRY DETAILS**

DESCRIPTION	ACTIONS & SOLUTIONS
what rate is paid for the hours of work immediately before or after a public holiday but is one continuous shift under the hospitality award	Hi
NA ENQUIRY TREATMENT & SUMMARY	Thank you for your enquiry. Based on the information that you have provided, it seems you are asking about a continuous shift crossing over 2 days, where 1 of these days is a Public Holiday.
Team Treatment	Unless an Award or Registered Agreement specifies otherwise, Employees would only be paid the Public Holiday rate for the time worked on the Public Holiday itself. The hours of
Recommended Advice Treatment	this shift that are not the Public Holiday would be paid at the usual rate that would apply for these hours.

#### **Assessment Summary**

Automated Assessment conducted on Wednesday, 2 November 2022. (ver. 18.11.29)

User ID:

Vulnerab

identified.

This means that under the Hospitality Industry Award, a shift that crosses over Midnight that is 4 hours both days would be paid as:

- -The applicable night or weekend rate for the 4 hours not on the public holiday and;
- -The applicable Public Holiday rate for the 4 hours that were on the Public Holiday.

I have attached an article from our Library to your recommended links that details this. If you require further clarification in regards to this, you can give us a call back on 13 13 94 or lodge another MyAccount enquiry.

Regards,

Fair Work Ombudsmar

**Mediation Conducted** 

**Forward Reason** 

**FWO Outcome** 

**Advice Provided** 

#### **DETAILS FOR KNOWLEDGE TEAM**

#### **MONIES RECOVERED**

			7 '0,			
<b>DETAILS FOR KNOWLEDGE TE</b>	EAM	( )	9, 900			
DETAILS FOR KNOWLEDGE TEAM		0	.0)			
Background Information		350	Legislatio	n/ Indstrial instruments consid	ered	
Specific questions/issue to be addresse	ed	20 01	Quality C	oach/TL Opinion		
Recommending Team Lead	(0)	is the				
MONIES RECOVERED	x5)	(8)				
Total (all non-confidential payments)	SUL IN		Total empl	oyees paid relating to enquiry		
Payment Type	Confidential	Amount	Created On	Created By	Payment Date	No. of Employee
-00		No Mone	ey Recovered records a	re available in this view.		
0 - 0 of 0 (0 selected)						Page 1

## **RELATED OBJECTS**

Customer	Link Type	URL	Reco <b>kinoveledge Ob</b> ject Title
	External	https://www.fairwork.gov	2/11/2022 7:15 PMLinked Knowledge Object records are available in this view.
1 - 1 of 1 (0 selected)		Page 1	0 - 0 of 0 (0 selected) Page 1

## **NOTES AND INTERACTIONS**

NOTES AND ACTIVITIES	SPECIAL CATEGORIES

Title: Incomplete MyAccount Enquiry has been set to Draft

Incomplete MyAccount Enquiry has been set to Draft Created On: 2/11/2022 10:51 AM Modified On: 2/11/2022 10:51 AM

Service CSSWebUser 2/11/2022 10:51 AM

Name	Owner	
1311 M	No Special Category records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1	

## EMAIL ADDRESSES

_			
	Email Source Type	Name	
			No Enquiry Email Link records are availab
	0 - 0 of 0 (0 selected)		Page 1

## **REQUEST FOR ASSISTANCE**

Is Employee an Intern

	Reason for not discussing the issue
Employee Received Paid Leave No	
ADDITIONAL EMPLOYEE DETAILS	Issue discussed with the Employer
REQUEST FOR ASSISTANCE	
	0 - 0 of 0 (0 selected)
CO / (	CO
A V	0,5
64	Email Source Type

Are Other Employees affected

Working as an Independent Contractor		Name	0,	Description Created
Contractor or Employee		No S	upporting Evidence records are a	available in this view.
PERMISSION TO CONTACT THE EMPLOYER		0 - 0 of 0 (0 selected)		Page 1
Privacy Consent		Name	-W	COI Type
•		No Classification	on of Issues records are available	in this view.
Confidential No		0 - 0 of 0 (0 selected)	10	Page 1
Permission to Contact Employer		Category	Topic	
Full Name		No T	opic records are available in this	view.
Phone		0 - 0 of 0 (0 selected)		Page 1
		CASE DETAILS		
Email		Is Suitable For Case Study No		
MESSAGES	Kar	Case Study Reason		
	He legeline like	Is Suitable For Follow Up No		
	ele ine	CONSENT TO MEDIATION		
	45,981	Employer/Employee Contacted	d	
OFFICE ADDRESS	1.110	Consent to Mediation		
Office				
Name				

0 - 0 of 0 (0 se	elected)		Page 1
Name	Official Name	Alpha	
Name	No Country/Region rec	ords are available in this view.	
		records are available in this vi	ew.
#400 bTrA bO∃N	elected)		Page 1
Non-Monetary	Outcomes	TOS	Page 1

**Total Time Spent (minutes)** 120

Subject	Status Reason	Date Created	Confirmed Date	Closed Date	Booking Type	Employee
		•	10,401	No Booking Activity	records are available	in this view.
0 - 0 of 0 (0 selected)		42				Page 1
Title	Owner	Created On	0,			
,	You do not have permission to access these	records. Contact y	our Microsoft Dynamics CRM	administrator.		
0 - 0 (0 selected)	No.	1 70.				Page 1

## **LEGAL ADVICE PROGRAM**

What is the issue that requires tailored legal advice (as per the assessment criteria)?

For current assessment criteria, see the following PACSR link Workplace Legal Advice Program

Referral Contact

**Referral Contact** 

Legal Advice ID number

<b>FMPI</b>	OYFR	ΔDV	ISORY	SFRV	/ICF

Eligible for EAS? EAS Source

EAS Request Details EAS Assessmen

Suitable for EAS Case Study No

TLO Advice

**EAS Case Study Reason** 

FWO Legal Advice

Document Name		Document ID	Documente Docume	Legal Firm	Status I
	VS/	No Document Link records are available	in this view.	No ELP Request records are available in this view.	
0 - 0 of 0 (0 selected)		Page 1	0 - 0 of 0 (0 selected)	Pa	ge 1

**INTRINSICS** 

Avaya Contact ID Skillset MyAccount Enquirer ABN

PureCloud ID

S.22 Irrelevant Information
Intrinsic Phone

View Customer Search Customer Edit Customer Register Customer Reset Password View Organisation Search Organisation

Search Employer View Employer

Enquiry: 2863214 Pag(1A-d1804) 140

## **Enquiry**

# 2863214

Enquiry No. <b>2863214</b>		tatus Resolved	Status Reason  Advice Provideo	011	Total Time Open (days) 1
ENQUIRY No of employees		Channel	My Account	EMPLOYEE DETAILS	
Enquiry Type Level 1	<b>Entitlements</b>	State	Multi-state	Occupation	
Enquiry Type Level 2	Overtime	Matter Number (Nexus)	e o	Main Duties	NA
		Matter ID number (Titan)	illi alli		
Awaiting Accept/Decline	No	Related Enquiry	9	Employee Status	Unsure
Created On	3/11/2022 12:48 PM	68/1	C	Is apprentice or trainee?	Neither
		(0)	·	Employment start date	
CUSTOMER/ORGANISATI	ON	21 4/0		— Employment end date	
Customer		Legal Name			
Enquirer Type	Employer representative	2nge.			
EMPLOYEE LOCATION					
Suburb	200	Postcode			
State	<b>Y</b>				

Enquiry: 2863214 Pag(1/A-01/8004) 141

ORGANISATION DETAILS

NOMINATED TO ACT ON CUSTOMER'S E	BEHALF			Industry Level 1	Information Media and Telecommunications
Full Name				Industry Level 2	Publishing (except Internet and Music Publishing)
Phone		Email		Industry Level 3	Software Publishing
ATTEND FWO OFFICE				Industry Level 4	Software Publishing
Can attend FWO office (if required) No		Interpreter Required	No	Instrument Type	Modern Award
FWO Office		Language	11/10	Employer Association	
ATIS Phone number: S.22	Infoline: Account	Customer Solutions: Account number S.	ber <mark>S.22</mark> Access	Pre-Post Reform	
	number S.22 Access number S.	9/04/16	8,000	Bound To Award	
ENQUIRY DETAILS		163260 1160			
DESCRIPTION			<b>ACTIONS &amp; SOLUTIO</b>	ONS	

## **ENQUIRY DETAILS**

DESCRIPTION	ACTIONS & SOLUTIONS
Clerks Award - Overtime Full time employees - do employers need to agree to a agreed hours of work arrangement	Dear
(contracted days/times) and as such pay overtime for any hours that are performed outside of the work arrangement. Or is it appropriate to have a work arrangement that is different	Thank you for your enquiry.
from pay cycle to pay cycle that falls below 38 hours thus no overtime paid. NA	You have asked if it's appropriate to change a full-time employee's work arrangement each pay cycle & how this affects when overtime is paid.
ENQUIRY TREATMENT & SUMMARY	Under the Clerks - Private Sector Award 2020, there is nothing to say that you can't change a full-time employee's roster week to week.
Team Treatment	Overtime is paid a few different ways under the award. It's paid when an employee works:

Enquiry: 2863214 Pagel A-d (804) 142

Recommended **Treatment** 

Advice

**Assessment Summary** 

Automated Assessment conducted on Thursday, 3 November 2022. (ver. 18.11.29)

- more than the maximum number of ordinary hours of work (over 10 hours per day or 38 hours per week)
- outside the spread of ordinary hours (Mon Fri 7am 7pm & Sat 7am 12pm).

Please see below for further information. Select 'Clerical' under Industry

https://www.fairwork.gov.au/employment-conditions/hours-of-work-breaks-androsters/hours-of-work/when-overtime-applies

If you have any follow up questions, please call us back on 13 13 94 between the hours of 8:00 am to 5:30 pm Monday through Friday, or you can submit an enquiry to us online via My account.

Regards

Fair Work Ombudsmar

**Mediation Conducted** No

**Forward Reason** 

**FWO Outcome Advice Provided** 

# antis inder the free DETAILS FOR KNOWLEDGE TEAM

DETAILS FOR KNOWLEDGE TEAM

**Background Information** 

Specific questions/issue to be addressed

**Recommending Team Lead** 

Legislation/ Indstrial instruments considered

Quality Coach/TL Opinion

## MONIES RECOVERED

Total (all non-confidential payments)

Total employees paid relating to enquiry

Confidential Payment Type **Amount** Created On Created By Payment Date No. of Employee Enquiry: 2863214 Pag(1A-01804) 143

No.	o Money Recovered records are available in this view.		
0 - 0 of 0 (0 selected)		6	Page 1

## **RELATED OBJECTS**

Customer	Link Type	URL	Reco <b>kinoweledge Ob</b> ject Title Link	
	External	https://www.fairwork.gov	3/11/2022 12:51 MLinked Knowledge Object records are	available in this view.
	External	https://www.fairwork.gov	0 - 8/31/898328248.BM	Page 1
	External	https://www.fairwork.gov	3/11/2022 12:48 PM	
4 2 54 (2 1 4 1)			100	
1 - 3 of 4 (0 selected)		Page 1		

## **NOTES AND INTERACTIONS**

#### SPECIAL CATEGORIES **NOTES AND ACTIVITIES**

Title: Incomplete MyAccount Enquiry has been set to Draft

Incomplete MyAccount Enquiry has been set to Draft Created On: 3/11/2022 12:48 PM Modified On: 3/11/2022 12:48 PM

Service CSSWebUser 3/11/2022 12:48 PM

	SPECIAL CATEGORIES		
t Enquiry has been set to Draft	Name	Owner	
has been set to Draft M		No Special Category records are available in this view.	
PM 022 12:48 PM	0 - 0 of 0 (0 selected)	Page 1	
	EMAIL ADDRESSES		
	Email Source Type	Name	
1/2 9/8,		No Enquiry Email Link records are avai	lal
Ve, MI	0 - 0 of 0 (0 selected)	Page 1	
ANCE	Issue discussed with the Emplo	ver	

## **EMAIL ADDRESSES**

Email Source Type	Name	
	No Enquiry Email Link records are a	availal
0 - 0 of 0 (0 selected)	Page 1	

## REQUEST FOR ASSISTANCE

Issue discussed with the Employer ADDITIONAL EMPLOYEE DETAILS

**Employee Received Paid Leave** No

Reason for not discussing the issue

Enquiry: 2863214 Pag(A.41804) 144

Employee's Date of Birth		Employer's Response	
ls Employee an Intern	No	Are Other Employees affected	
Working as an Independent Contractor	No	Pay Rate (Before tax)  Currency	
Contractor or Employee		Name Description	n Created
PERMISSION TO CONTACT THE	EMPLOYER	No Supporting Evidence records are available in the	nis view.
Privacy Consent		0 - 0 of 0 (0 selected)	Page 1
riivacy consent		Name COI Type	
Confidential	No	No Classification of Issues records are available in this view.	
Permission to Contact Employe		0 - 0 of 0 (0 selected)	Page 1
Full Name	W.	Category Topic	
Phone	$\ell_{Q}$	No Topic records are available in this view.	
THORE	00 00	0 - 0 of 0 (0 selected)	Page 1
Email	25 410	CASE DETAILS	
MESSAGES	ele ine	Is Suitable For Case Study No	
	cuments released by	Case Study Reason	
	IIUGI THE	Is Suitable For Follow Up No	
	C	CONSENT TO MEDIATION	
Oc		Employer/Employee Contacted	

Enquiry: 2863214 Pag(1A-01804) 145

# Page 1. Date **OFFICE ADDRESS** Office Name No Memorandum Of Understanding records are available in this view. 0 - 0 of 0 (0 selected) Official Name Alpha... Name No Country/Region records are available in this view. 0 - 0 of 0 (0 selected) Name No Educational Assistance records are available in this view.

## **MEDIATION**

0 - 0 of 0 (0 selected)

**Non-Monetary Outcomes** 

Subject	Status Reason	Date Created	Confirmed Date	Closed Date	Booking Type	Employee
	(8) 11/1			No Booking Activity	ecords are available	in this view.
0 - 0 of 0 (0 selected)	45 10					Page 1
Title	Owner	Created On				
	You do not have permission to access these	records. Contact you	r Microsoft Dynamics CRM	administrator.		
0 - 0 (0 selected)	20,					Page 1

## **LEGAL ADVICE PROGRAM**

Enquiry: 2863214 Pag(1)A-01804) 146

What is the issue that requires tailored legal advice (as per the assessment criteria)?

For current assessment criteria, see the following PACSR link Workplace Legal Advice Program

Legal Advice ID number **Referral Contact** 

**EMPLOYER ADVISORY SERVICE** 

**Eligible for EAS?** 

EAS Source

EAS Assessment **EAS Request Details** 

Enquiry: 2863214 Pag(1/A-d1804) 147

No Document Link records are available in this view.  No ELP Request records are	re available in this view.	
Document Name Document ID Document ID Document Martin Legal Firm	Status	I

**INTRINSICS** 

**Enquirer ABN Avaya Contact ID** Skillset MyAccount

PureCloud ID

et Password View Organisation Search Organisation View Customer

Search Employer

Enquiry: 2864254 Pag(1A-d1804) 148

## **Enquiry**

# 2864254

Enquiry No.	Sta	tus		Status Reason		Total Time Open (days)
2864254	Res	olved		Advice Provided	+ dilol.	3
ENQUIRY				.10		
No of employees		Channel	My Account	. 1/9	EMPLOYEE DETAILS	
Enquiry Type Level 1	<b>Entitlements</b>	State	Multi-state	311/10	Occupation	
Enquiry Type Level 2	<b>Overtime</b>	Matter Number (Nexus)	, e	0	Main Duties	NA
		Matter ID number (Titan)	111			
Awaiting Accept/Decline	No	Related Enquiry	9 GC		<b>Employee Status</b>	Unsure
Created On	4/11/2022 11:09 AM	560.11	8		Is apprentice or trainee?	Neither
		100			Employment start date	
CUSTOMER/ORGANISATION	ON				Employment end date	
Customer		Legal Name			, , , , , , , , , , , , , , , , , , ,	
Enquirer Type	Employer representative	3100				
EMPLOYEE LOCATION						
Suburb	200	Postcode				
State						

Enquiry: 2864254 Pag(1/A-01/804) 149

**ORGANISATION DETAILS** 

## Information Media and **Industry Level 1** NOMINATED TO ACT ON CUSTOMER'S BEHALF Telecommunications **Full Name** Publishing (except Internet and **Industry Level 2** Music Publishing) Phone **Email Industry Level 3 Software Publishing Software Publishing Industry Level 4 ATTEND FWO OFFICE** Can attend FWO office (if required) No **Interpreter Required** No **Instrument Type** Modern Award **FWO Office** Language **Employer Association** number \$.22 Acc ATIS Phone number: \$.22 Infoline: **Pre-Post Reform** Account **Bound To Award** Access

## **ENQUIRY DETAILS**

DESCRIPTION

DESCRIPTION	ACTIONS & SOLUTIONS
Retail Award	ні <mark>s.22</mark>
15.4 Subject to clause 15.5, the maximum number of ordinary hours that can be worked on any day is 9.	Thank you for your enquiry. I understand you are seeking information on breaks and hours of work under the Retail Award. I've attached a copy of the award in your suggested links.
15.5 An employer may roster an employee to work up to 11 ordinary hours on one day per week.	Clause 16 of the award stipulates the provisions for break entitlements. Under the award, there are two types of breaks:  - A rest break is a 10 minute paid break that counts as time worked
Are the maximum hours inclusive or exclusive of meal and rest breaks  ENOUIRY TREATMENT & SUMMARY	- A meal break is a 30-60 minute unpaid break that doesn't count as time worked, except for shiftworkers.

ACTIONS & SOLUTIONS

Enquiry: 2864254 Pag(1A-01804) 150

**Team Treatment** 

Recommended **Treatment** 

Advice

**Assessment Summary** 

Automated Assessment conducted on Friday, 4 November 2022.

(ver. 18.11.29)

Meal breaks for shiftworkers are paid and count as time worked.

This means, that for the purposes of calculating hours worked, it will depend on the type of break or breaks an employee has during their shift - that is, whether there break is paid and counts as time worked, or an unpaid break that doesn't count as time worked.

You can find further information about breaks under the award on our website here: https://www.fairwork.gov.au/employment-conditions/hours-of-work-breaks-androsters/breaks

You can apply the 'retail' filter for tailored information under the award.

If you have any follow up questions, please call us on 13 13 94 between the hours of Monday to Friday 8am to 5:30pm, where one of our team will be very happy to discuss further.

Fair Work Ombudsman

**Mediation Conducted** 

**FWO Outcome** 

**Forward Reason** 

**Advice Provided** 

# anis Inder the Freek **DETAILS FOR KNOWLEDGE TEAM**

**DETAILS FOR KNOWLEDGE TEAM** 

**Background Information** 

Specific questions/issue to be addressed

**Recommending Team Lead** 

Legislation/Indstrial instruments considered

**Quality Coach/TL Opinion** 

**MONIES RECOVERED** 

**Total (all non-confidential payments)** 

Total employees paid relating to enquiry

Enquiry: 2864254 Pag(1A-01804) 151

Payment Type	Confidential	Amount	Created On	Created By	Payment Date	No. of Employeε
		No Moi	ney Recovered records a	e available in this view.		
0 - 0 of 0 (0 selected)						Page 1

## **RELATED OBJECTS**

Customer	Link Type	URL	Recotanovaledge Object Title Link	
	• •		No Linked Knowledge Object records are available in this view.	
	Loading Link records		0 - 0 of 0 (0 selected) Page	1
0 - 0 of 0 (0 selected)		Page 1		

## NOTES AND INTERACTIONS

SPECIAL CATEGORIES **NOTES AND ACTIVITIES** 

Title: Incomplete MyAccount Enquiry has been set to Draft

Incomplete MyAccount Enquiry has been set to Draft Created On: 4/11/2022 11:09 AM Modified On: 4/11/2022 11:09 AM Service CSSWebUser 4/11/2022 11:09 AM

Name	Owner	
70,	No Special Category records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1	

## **EMAIL ADDRESSES**

Email Source Type	Name	
	No Enquiry Email Link records are a	vailak
0 - 0 of 0 (0 selected)	Page 1	

## **REQUEST FOR ASSISTANCE**

released by the o Issue discussed with the Employer ADDITIONAL EMPLOYEE DETAILS

Employee Received Paid Leave

No

Reason for not discussing the issue

Employee's Date of Birth		Employer's Response	
Is Employee an Intern	No	Employer's Response	
Working as an Independent Contractor	No	Are Other Employees affected	
Contractor or Employee		Pay Rate (Before tax)	
PERMISSION TO CONTACT THE EN	IPLOYER	- Name	Description Created
Privacy Consent		No Supporting Evidence records are ava	·
Confidential	No	0 - 0 of 0 (0 selected)	Page 1
Permission to Contact Employer		Name	COI Type
Full Name		No Classification of Issues records are available in	this view.
· un rume		0 - 0 of 0 (0 selected)	Page 1
Phone	60	Category Topic	
Email	00	No Topic records are available in this vie	ew.
MESSAGES		0 - 0 of 0 (0 selected)	Page 1
	% NO	CASE DETAILS	
		Is Suitable For Case Study No	
	Jimenite kelegishe	Case Study Reason	
~ C		Is Suitable For Follow Up No	
OFFICE ADDRESS		CONSENT TO MEDIATION	

Enquiry: 2864254 Pag(1A-01804) 153



## **MEDIATION**

**Non-Monetary Outcomes** TOS

Subject	Status Reason Date Created	Confirmed Date	Closed Date	Booking Type	Employee
			No Booking Activity	records are available	in this view.
0 - 0 of 0 (0 selected)	(8) 4/1				Page 1
Title	Owner Created On				
	You do not have permission to access these records. Contact your	Microsoft Dynamics CRM	1 administrator.		
0 - 0 (0 selected)					Page 1

## **LEGAL ADVICE PROGRAM**

What is the issue that requires tailored legal advice (as per the assessment criteria)?

Enquiry: 2864254 Pag(1)A-01804) 154

For current assessment criteria, see the following PACSR link Workplace Legal Advice Program

Legal Advice ID number **Referral Contact** 

## **EMPLOYER ADVISORY SERVICE**

**Eligible for EAS?** 

**EAS Request Details** 

Suitable for EAS Case Study No

**EAS Case Study Reason FWO Legal Advice**  Enquiry: 2864254 Pagel A - 41804) 155

No Document Link records are available in this view.  No ELP Request records are	re available in this view.	
Document Name Document ID Document ID Document Martin Legal Firm	Status	I

## **INTRINSICS**

**Avaya Contact ID** Skillset MyAccount PureCloud ID **Intrinsic Phone** View Organisation Search Organisation View Customer

Search Employer

Enquiry: 2949716 Pag(4A-d1804) 156

## **Enquiry**

# 2949716

Enquiry No.		tatus	Status Reason		Total Time Open (days)
2949716	A	ctive	Referred to Know	ledge Team	29
ENQUIRY No of employees	1,000	Channel	Inbound Phone	EMPLOYEE DETAILS	
Enquiry Type Level 1	<b>a</b> Entitlements	State	Vic	Occupation	
Enquiry Type Level 2	<b>Overtime</b>	Matter Number (Nexus)	, e o	Main Duties	
		Matter ID number (Titan)	11, 10		
Awaiting Accept/Decline	No	Related Enquiry	90,	Employee Status	Full-time
Created On	14/02/2023 9:06 AM	-61	0	Is apprentice or trainee?	Neither
Crouted on	14,02,2323 3.00 7.111	000 01		Employment start date	
CUSTOMER/ORGANISATI	ON	0/4/0		Employment end date	
Customer	An example of	Legal Name			
Enquirer Type	Employer	luge			
EMPLOYEE LOCATION					
Suburb	700	Postcode			
State	$\searrow$		•		

Enquiry: 2949716 Pagel A-018904) 157

**ORGANISATION DETAILS** 

## Information Media and **Industry Level 1** NOMINATED TO ACT ON CUSTOMER'S BEHALF Telecommunications **Full Name Industry Level 2** Publishing (except Internet and **Music Publishing**) **Phone Email Industry Level 3** Software Publishing Software Publishing **Industry Level ATTEND FWO OFFICE Interpreter Required** Can attend FWO office (if required) No No **Instrument Type** Modern Award **FWO Office** Language **Employer Association** ased by the dom' of ATIS Phone number: Infoline: **Pre-Post Reform** Account **Bound To Award** Access

## **ENQUIRY DETAILS**

**DESCRIPTION ACTIONS & SOLUTIONS** \*\*\*\*\* User ID 1. Does OT apply if the EE does not get a minimum break of 10 hours between shifts? What Have answered in note section. does changeover in roster entail? 2. If EE is rostered to work more than 10 ordinary hours on more than 3 consecutive days but \*escalating due to risk. ER said thousands of EEs could be using this system to calculate OT does not receive a 48 hour break after the last consecutive day, do they receive OT? so wanting to make sure advice is accurate 3. Split shifts: If 3rd shift goes outside of 12 hours, is the whole shift OT or just the hours MA000009 outside of 12 hours, OT? 1. (e) An employee must have a minimum break of 10 hours between when the employee

Enquiry: 2949716 Pag#A-df804) 158

## **ENQUIRY TREATMENT & SUMMARY**

**Team Treatment** 

Recommended Treatment

**Assessment Summary** 

s.22 Irrelevant

User ID: S.22

s.22 Irrelevant Information

finishes ordinary hours on one day and starts ordinary hours on the next and a minimum break of 8 hours for a changeover of rosters.

2. (iii) an employee who is rostered to work more than 10 ordinary hours on more than 3 consecutive days is entitled to a break of at least 48 hours after the last consecutive day on which the employee works more than 10 ordinary hours; and

Mediation Conducted

Forward Reason

Referred to Knowledge Team

**FWO Outcome** 

## **DETAILS FOR KNOWLEDGE TEAM**

**DETAILS FOR KNOWLEDGE TEAM** 

**Background Information** 

Covered a lot of questions for ER in the notes section re OB call

MAO

Legislation/ Indstrial instruments considered MA000009: Hospitality Industry (General) Award 2020

Similar history -KNO-028536

KNO-035967

Specific questions/issue to be addressed

2. If EE is rostered to work more than 10 ordinary hours on more than 3 consecutive days but does not receive a 48 hour break after the last consecutive day, do they receive OT?

- 2.A does Overtime apply re question 2 for
- a. Before 30 hours
- b. After 30 hours
- c. until they receive 48 hour break?

---

3. Split shifts: If 3rd shift goes outside of 12 hours, is the whole shift OT or just the hours outside of 12 hours, OT?

**Recommending Team Lead** 



Quality Coach/TL Opinion

Enquiry: 2949716 Pag(1A-d18004) 159

## **MONIES RECOVERED**

Total (all non-confidential payments)

## Total employees paid relating to enquiry

Payment Type	Confidential	Amount	Created On	Created By	70,0	Payment Date	No. of Employee
		No Mo	ney Recovered records a	re available in this view	v.		
0 - 0 of 0 (0 selected)				1	.:(0)		Page 1

## **RELATED OBJECTS**

Customer	Link Type	URL	Recotinovaledge Object Title Link	
	No Link records are avail	able in this view.	No Linked Knowledge Object records are available in this view.	1-
0 - 0 of 0 (0 selected)		Page 1	0 - 0 of 0 (0 selected) Pag	ge 1

## **NOTES AND INTERACTIONS**

21/02/2023 2:43 PM

NOTES AND ACTIVITIES	SPECIAL CATEGORIES	
Title: Additional questions ER wants answered from 21/02 OB call	Name	Owner
		No Special Category records are available in this view.
2. If EE is rostered to work more than 10 ordinary hours on more than 3 consecutive days but does not receive a 48 hour break after the last consecutive day, do they receive OT?	0 - 0 of 0 (0 selected)	Page 1
2.A does Overtime apply re question 2 - for a. Before 30 hours	EMAIL ADDRESSES	
b. After 30 hours c. until they receive 48 hour break ?	Email Source Type	Name
		No Enquiry Email Link records are avail
3. Split shifts: If 3rd shift goes outside of 12 hours, is the whole shift OT or just the hours outside of 12 hours. OT?	0 - 0 of 0 (0 selected)	Page 1

Enquiry: 2949716 Pag(1A-018004) 160

SMS prompt sent 9:54am 21/02/23 1st call attempt 9:56am 21/02/23 successful

1. Does OT apply if the EE does not get a minimum break of 10 hours between shifts? What does changeover in roster entail?

28.3 In calculating overtime payments, overtime worked on any day stands alone from overtime worked on any other day.

- = The award is silent re OT being applicable if there is no 10 hour break provided between shifts
- = The award is silent on definition of changeover in roster
- 2. If EE is rostered to work more than 10 ordinary hours on more than 3 consecutive days but does not receive a 48 hour break after the last consecutive day, do they receive OT?
- = Potentially yes due to technical reasons under Clause -

#### 28.2 Payment of overtime

(a) An employer must pay a full-time employee at the overtime rate for any time worked in excess of their ordinary hours.

As Clause states -

- 15. Ordinary hours of work and rostering arrangements
- 15.1 Full-time employees
- (c) The arrangement agreed must adopt one of the options mentioned in clause 15.1(b) and must satisfy the following conditions:
- (iii) an employee who is rostered to work more than 10 ordinary hours on more than 3 consecutive days is entitled to a break of at least 48 hours after the last consecutive day on which the employee works more than 10 ordinary hours; and
- 3. Split shifts: If 3rd shift goes outside of 12 hours, is the whole shift OT or just the hours outside of 12 hours, OT?

Not complete

=

- 15. Ordinary hours of work and rostering arrangements
- 15.1 Full-time employees
- (c) The arrangement agreed must adopt one of the options mentioned in clause 15.1(b) and must satisfy the following conditions:
- (v) the maximum spread of hours for an employee who works split shifts is 12;and

**5.22 Irrelevant** 21/02/2023 10:42 AM

Enquiry: 2949716 Pag(1A-d18904) 161

## **REQUEST FOR ASSISTANCE**

Issue discussed with the Employer **ADDITIONAL EMPLOYEE DETAILS Employee Received Paid Leave** Reason for not discussing the issue **Employee's Date of Birth Employer's Response** Is Employee an Intern Working as an Independent **Are Other Employees affected** Contractor **Contractor or Employee** Pay Rate (Before tax Currency Australi an PERMISSION TO CONTACT THE EMPLOYER **Dollar Privacy Consent** Name Description Created ( ocuments inder the comments of No Supporting Evidence records are available in this view. Confidential 0 - 0 of 0 (0 selected) Page 1 **Permission to Contact Employer** Name COI Type **Full Name** No Classification of Issues records are available in this view. **Phone** 0 - 0 of 0 (0 selected) Page 1 **Email** Topic Category No Topic records are available in this view. **MESSAGES** 0 - 0 of 0 (0 selected) Page 1 **CASE DETAILS** Is Suitable For Case Study No

Enquiry: 2949716 Pag(4A-418004) 162

Case Study Reason

Is Suitable For Follow Up No

**CONSENT TO MEDIATION** 

Employer/Employee Contacted

Consent to Mediation

**OFFICE ADDRESS** 

## Office

Name

No Memorandum Of Understanding records are available in this view.

0 - 0 of 0 (0 selected)

Page 1

Name

Official Name

Alpha...

Name Official Name Alpha...

No Country/Region records are available in this view.

0 - 0 of 0 (0 selected)

Page 1

Name

No Educational Assistance records are available in this view.

0 - 0 of 0 (0 selected)

Page 1

## **MEDIATION**

**Non-Monetary Outcomes** 

TOS

## s.22 Irrelevant Information

Subject	~0	Status Reason	Date Created	Confirmed Date	Closed Date	Booking Type	Employee I

No Booking Activity records are available in this view.

Enquiry: 2949716 Pag(1A-d18904) 163

0 - 0 of 0 (0 selected)		Page 1
Title	Owner Created On	
	You do not have permission to access these records. Contact your Microsoft Dynamics CRM administrator.	
0 - 0 (0 selected)		Page 1

## **LEGAL ADVICE PROGRAM**

What is the issue that requires tailored legal advice (as per the assessment criteria)?

For current assessment criteria, see the following PACSR link Workplace Legal Advice Program

Referral Contact Legal Advice ID number

**EMPLOYER ADVISORY SERVICE** 

Eligible for EAS? EAS Source

EAS Request Details EAS Assessment

Enquiry: 2949716 Pag(1A-018004) 164

			albudsmain	
Suitable for EAS Case Study No		TLO Advice	Ollion	
EAS Case Study Reason		FWO Legal Advice	Mar	
Document Name	Document ID	Doculine Reforation	Legal Firm	Status I
	No Document Link records are available i	n this view.	No ELP Request records are available in this view.	
0 - 0 of 0 (0 selected)	Page 1	0 - 0 of 0 (0 selected)	Pag	e 1

## **INTRINSICS**

**Medium to Large Business Avaya Contact ID** Skillset **Enquirer ABN** 

PureCloud ID

**Intrinsic Phone** 



View Customer

Register Customer

Reset Password

View Organisation

Search Organisation

Search Employer

Enquiry: 2950337

Pag(1A-d1804) 165

Status Reason

## **Enquiry**

Enquiry No.

# 2950337

Status

2.19411) 1101	5 63.		5 64 645 . 164		. o.ta o p o (aa) o)
2950337	Res	olved	Advice Pro	ovided	2
<b>ENQUIRY</b> No of employees		Channel	My Account	EMPLOYEE DETAILS	
Enquiry Type Level 1	<b>Entitlements</b>	State	Multi-state	Occupation	
Enquiry Type Level 2	Overtime	Matter Number (Nexus)	e o	Main Duties	None
		Matter ID number (Titan)	111		
Awaiting Accept/Decline	No	Related Enquiry	90,	<b>Employee Status</b>	Unsure
Created On	14/02/2023 1:29 PM	60	8	Is apprentice or trainee?	Neither
		· 6.02		Employment start date	
CUSTOMER/ORGANISATI	ON			Employment end date	
Customer	As S	Legal Name		- Employment end date	
Enquirer Type	Employer representative	nde			
EMPLOYEE LOCATION					
Suburb	700	Postcode			
State					

Enquiry: 2950337 Pag(1/A-01/8004) 166

ORGANISATION DETAILS

NOMINATED TO ACT ON CUSTOMER'S	BEHALF			Industry Level 1	Information Media and Telecommunications
Full Name				Industry Level 2	Publishing (except Internet and Music Publishing)
Phone		Email		Industry Level 3	Software Publishing
ATTEND FWO OFFICE				Industry Level 4	Software Publishing
Can attend FWO office (if required) No		Interpreter Required	No	Instrument Type	Modern Award
FWO Office		Language	17	Employer Association	
ATIS Phone number: S.22	Infoline: Account	Customer Solutions: Account num number <mark>S</mark> .	ber <mark>S.22</mark> Access	Pre-Post Reform	
	number S.22 Access number S.	- Will	901101	Bound To Award	
ENQUIRY DETAILS		18.05 EVE			
-		10,70			

## **ENQUIRY DETAILS**

DESCRIPTION	ACTIONS & SOLUTIONS
Hi, are you required to average in the hospitality Award	Hi <b>de la comp</b>
If so what cycles can you average ie. 4 weeks, 2 weeks 1 weeks	
Do you have to average hours in hospitality or can you not average hours	Thank you for your enquiry about averaging of hours under the Hospitality Industry
If you have to average what cycles can you average on	(General) Award 2020.
Vo /),	
ENQUIRY TREATMENT & SUMMARY	I can see that you called through to our Infoline on 15/02/2023 and you were provided with
	advice in enquiry #2951158. As such, this My Account enquiry has been closed.
Team Treatment	
	If you have any further questions, please feel free to submit another online enquiry or call us
Advice	on 13 13 94 between 8:00am to 5:30pm Monday to Friday.

Enquiry: 2950337 Pag(1A-d1804) 167

Recommended Treatment

**Assessment Summary** 

Pay & Wages : (OVERTIME)

Automated Assessment conducted on Tuesday, 14 February 2023.

ver. 18.11.29)

s.22 Irrelevant Information Regards,



Mediation Conducted No

**Forward Reason** 

FWO Outcome Advice Provided

## DETAILS FOR KNOWLEDGE TEAM

**DETAILS FOR KNOWLEDGE TEAM** 

**Background Information** 

Specific questions/issue to be addressed

**Recommending Team Lead** 

Legislation/Indstrial instruments considered

Quality Coach/TL Opinion

## **MONIES RECOVERED**

Total (all non-confidential payments)

Total employees paid relating to enquiry

Payment Type	Confidential Amount	Created On	Created By	Payment Date	No. of Employee
No Money Recovered records are available in this view.					
0 - 0 of 0 (0 selected)	76 70,				Page 1

## **RELATED OBJECTS**

Customer	C))	Link Type	URL	Recot/moveledget Object Title Link	
	0	External	https://www.fairwork.gov.	14/02/2023 1:29 MLinked Knowledge Object records are available in this view.	
		External	https://www.fairwork.gov.	0 - 14/92/2023i1:40-8M Page 1	

Enquiry: 2950337 Pag(1A-d1804) 168

	External	https://www.fairwork.gov	14/02/2023 1:40 PM
1 - 3 of 4 (0 selected)		Page 1	

## **NOTES AND INTERACTIONS**

NOTES AND ACTIVITIES	SPECIAL CATEGORIES

Title: Incomplete MyAccount Enquiry has been set to Draft

Created On: 14/02/2023 1:29 PM Modified On: 14/02/2023 1:29 PM

Service CSSWebUser 14/02/2023 1:29 PM

Incomplete MyAccount Enquiry has been set to Draft

Name
Owner

No Special Category records are available in this view.

0 - 0 of 0 (0 selected)
Page 1

## **EMAIL ADDRESSES**

Pay Rate (Before tax)

Email Source Type	Name	
	No Enquiry Email Link records are	availal
0 - 0 of 0 (0 selected)	Page 1	

Currency

## REQUEST FOR ASSISTANCE

**Contractor or Employee** 

ADDITIONAL EMPLOYEE DETAILS		Issue discussed with the Employer
Employee Received Paid Leave	No	Reason for not discussing the issue
Employee's Date of Birth	25 28	Employer's Response
Is Employee an Intern	No	
Working as an Independent Contractor	No	Are Other Employees affected

Enquiry: 2950337 Pag(A-d)804) 169

PERMISSION TO CONTACT THE EMPLOYER	Name	Description Creat
Privacy Consent		No Supporting Evidence records are available in this view.
Confidential No	0 - 0 of 0 (0 selected)	Page 1
Permission to Contact Employer	Name	COI Type
Full Name	No Classi	sification of Issues records are available in this view.
Phone	0 - 0 of 0 (0 selected)	Page 1
Email	Category Pay and Wages	Overtime
MESSAGES	1 - 1 of 1 (0 selected)	Page 1
	CASE DETAILS	
	Is Suitable For Case Stud	ły No
	Case Study Reason	
	Case Study Reason  Is Suitable For Follow Up  CONSENT TO MEDIATION  Employer/Employee Control	p No
OFFICE ADDRESS	CONSENT TO MEDIATION	N
Office	Employer/Employee Con	ntacted
Name	Consent to Mediation	
NameNo MemoAfficial Namenderstanding recold	hare available in this view.	
Name No Country/Region records are ava 0 - 0 of 0 (0 selected) No Educational Assistance records are		
	Page i	

Enquiry: 2950337 Pag(1A-01804) 170

0 - 0 of 0 (0 selected) Page 1

## **MEDIATION**

**Non-Monetary Outcomes** TOS

Subject	Status Reason	Date Created	Confirmed Date Closed Date	Booking Type Emp	oloyee
			No Booking Activity red	cords are available in this v	iew.
0 - 0 of 0 (0 selected)			A Jilo	Page 1	
Title	Owner	Created On	10, Wo		
	You do not have permission to access these	records. Contact	your Microsoft Dynamics CRM administrator.		
0 - 0 (0 selected)		4		Page 1	

## **LEGAL ADVICE PROGRAM**

What is the issue that requires tailored legal advice (as per the assessment criteria)?

For current assessment criteria, see the following PACSR link  $\underline{\text{Workplace Legal Advice Program}}$ 

Legal Advice Progra **Legal Advice ID number Referral Contact** 

**EMPLOYER ADVISORY SERVICE** 

**Eligible for EAS? EAS Source** 

quay: 250 obo;			2 118/11/11/11
EAS Request Details	EAS Asse	essment	ain
		301192	
		AIL Notk Okupilok	
		Molinge	
	42		
Suitable for EAS Case Study No	TLO Adv	rice	
EAS Case Study Reason	FWO Leg	gal Advice	
Document Name	Document ID Document	itdentetotration Legal Firm	Status I
	No Document Link records are available in this view	v. No ELP Request reco	rds are available in this view.
0 - 0 of 0 (0 selected)	Page 1 0 - 0	of 0 (0 selected)	Page 1

#### **INTRINSICS**

**Avaya Contact ID** 

Skillset

MyAccount

**Enquirer ABN** 

PureCloud ID

**Intrinsic Phone** 

Enquiry: 2950337

Pag(1A-41804) 172

View Customer Search Customer Edit Customer Register Customer Reset Password View Organisation Search Organisation
Search Employer

Enquiry: 2951158 Pag(1A-d1804) 173

## **Enquiry**

# 2951158

Enquiry No.	St	atus	Status Reason		Total Time Open (days)
2951158 ENQUIRY	R	esolved	Advice Provided	it sijol	1
No of employees	1,000	Channel	Inbound Phone	EMPLOYEE DETAILS	
Enquiry Type Level 1	<b>Entitlements</b>	State	Vic	Occupation	
Enquiry Type Level 2	Overtime	Matter Number (Nexus)	ve oi	Main Duties	Retail
		Matter ID number (Titan)	11, 00		
Awaiting Accept/Decline	No	Related Enquiry	900	Employee Status	
Created On	15/02/2023 9:25 AM	68011	(S)	Is apprentice or trainee?	Neither
		(P) (P)	·	Employment start date	
CUSTOMER/ORGANISATI	ON	0		- Employment end date	
Customer		Legal Name		. ,	
Enquirer Type	Employer	7WO'G			
EMPLOYEE LOCATION					
Suburb	200	Postcode			
State	V		-		

Enquiry: 2951158 Pag(1A-01804) 174

NOMINATED TO ACT ON CUSTOMER'S E	BEHALF		Industry Level 1	Information Media and
Full Name			Industry Level 2	Telecommunications  Publishing (except Internet and Music Publishing)
Phone		Email	Industry Level 3	Software Publishing
ATTEND FWO OFFICE			Industry Level 4	Software Publishing
Can attend FWO office (if required) No		Interpreter Required No	Instrument Type	Modern Award
FWO Office		Language	Employer Association	
ATIS Phone number: S.22	Infoline:	Customer Solutions: Account number \$.22 Access	Pre-Post Reform	
	Account number s.22 Access number s.	number S.	Bound To Award	

#### **ENQUIRY DETAILS**

#### DESCRIPTION ACTIONS & SOLUTIONS

#### **Retail Award**

1- Can the ordinary hours of a FT or PT EE be varied week to week? Does it matter if EEs hours vary if they are still getting guaranteed hours?

**Hospitality Award** 

- 2 -
- -Is it averaged over a week or month?
- -Does ER need to average 38 hours per week or month

**ENQUIRY TREATMENT & SUMMARY** 

- 1- The employer and the employee may agree to vary the regular pattern of work agreed under clause 10.5 on a temporary or ongoing basis, with effect from a future date or time. Any such agreement must be recorded in writing:
- (a) if the agreement is to vary the employee's regular pattern of work for a particular rostered shift –before the end of the affected shift; and

**ORGANISATION DETAILS** 

(b) otherwise -before the variation takes effect.

NOTE 1:An agreement under clause 10.6 could be recorded in writing including through an exchange of emails, text messages or by other electronic means.

-- S.22 call transferred ---

**Team Treatment** 

Recommended **Treatment** 

**Assessment Summary** 



MA000009: Hospitality Industry (General) Award 2020

Cl 15 hours of work can averaged over a week, fortnight or month. Or can not average and just do 38 hours per week

**Mediation Conducted** 

**Forward Reason** 

**FWO Outcome** 

**Advice Provided** 

#### DETAILS FOR KNOWLEDGE TEAM

#### **DETAILS FOR KNOWLEDGE TEAM**

**Background Information** 

Specific questions/issue to be addressed

**Recommending Team Lead** 

Legislation/Indstrial instruments considered

Quality Coach/TL Opinion

#### **MONIES RECOVERED**

Total (all non-confidential payments)

Total employees paid relating to enquiry

Payment Type	Confidential Amount	Created On	Created By	Payment Date	No. of Employee
	(0, 41,				
	Loading	Money Recovered red	cords		
0 - 0 of 0 (0 selected)	6,1,10	,			Page 1

## **RELATED OBJECTS**

Customer	00	Link Type	URL	Recol/monvelledgel-Object Title Link

Enquiry: 2951158 Pag(1A-01804) 176





#### **NOTES AND INTERACTIONS**

**NOTES AND ACTIVITIES** SPECIAL CATEGORIES



#### **EMAIL ADDRESSES**

Email Source Type	Name	
(0,	•	
	•	
	Loading Enquiry Email Link records	
0 - 0 of 0 (0 selected)		Page 1

Australi

#### **REQUEST FOR ASSISTANCE**

Velige inger the like for Issue discussed with the Employer ADDITIONAL EMPLOYEE DETAILS

**Employee Received Paid Leave** Reason for not discussing the issue

**Employee's Date of Birth Employer's Response** 

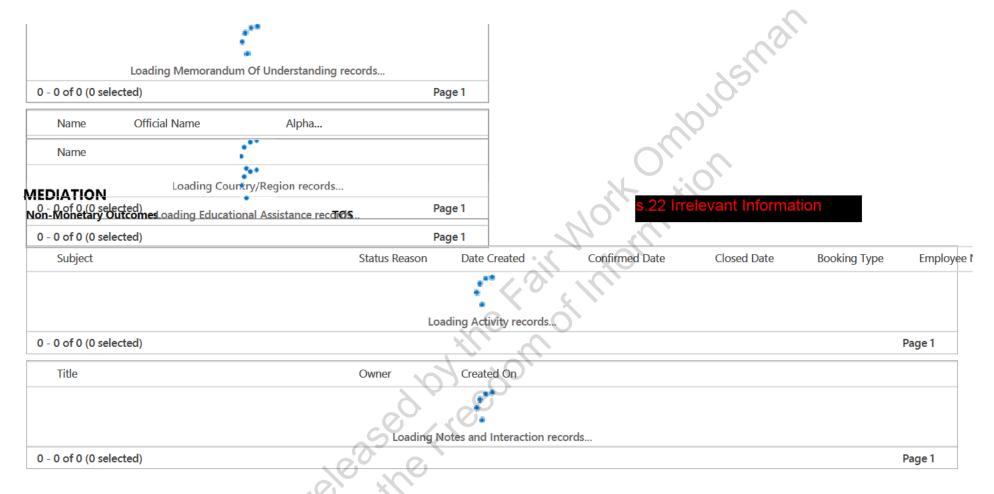
Are Other Employees affected Is Employee an Intern

Pay Rate (Before tax) Currency Working as an Independent

Contractor

Contractor or Employee					an Dollar
DEDMISSION TO CONTACT THE	F FMADLOVED	Name	26	Description	Created
PERMISSION TO CONTACT TH  Privacy Consent	EEMPLOYER				
		Loading Su	pporting Evidence records		
Confidential	No	0 - 0 of 0 (0 selected)			Page 1
Permission to Contact Employe	er	Name	70	COI Type	
Full Name		Loading Cla	ssification of Issues records		
Phone		0 - 0 of 0 (0 selected)			Page 1
Email		Category T	opic		
	//	0,	:		
MESSAGES		Loa	ding Topic records		
	10,3	0 - 0 of 0 (0 selected)			Page 1
	60/166	CASE DETAILS			
		Is Suitable For Case Study No			
	Chule marker in a series of the series of th	Case Study Reason			
OFFICE ADDRESS	15 76				
OFFICE ADDRESS	011111	Is Suitable For Follow Up No			
Office		CONSENT TO MEDIATION			
Name	50	Employer/Employee Contacted			
		Consent to Mediation			

Enquiry: 2951158 Pag(1A-d1804) 178



#### **LEGAL ADVICE PROGRAM**

What is the issue that requires tailored legal advice (as per the assessment criteria)?

Enquiry: 2951158 Pag(1/A-d1804) 179

For current assessment criteria, see the following PACSR link Workplace Legal Advice Program

Legal Advice ID number **Referral Contact** 

**EMPLOYER ADVISORY SERVICE** 

**Eligible for EAS?** 

**EAS Request Details** 

Suitable for EAS Case Study No

**EAS Case Study Reason FWO Legal Advice**  Enquiry: 2951158 Pag(1/A-d1804) 180



#### **INTRINSICS**

**Avaya Contact ID Medium to Large Business Enquirer ABN** Skillset evant Information PureCloud ID Intrinsic Phone Reset Password Search Organisation View Organisation **View Customer** 

Search Employer

Enquiry: 2956612 Pag(1A-d1804) 181

## **Enquiry**

# 2956612

Enquiry No.		atus	Status Reason	$O_{II}$	Total Time Open (days)
2956612	Re	solved	Advice Provided	1/2(0)	3
ENQUIRY			2/0	The Silve	
No of employees	1,000	Channel	My Account	EMPLOYEE DETAILS	
Enquiry Type Level 1	<b>Entitlements</b>	State	Multi-state	Occupation	
Enquiry Type Level 2	Overtime	Matter Number (Nexus)	.00	Main Duties	
		Matter ID number (Titan)	11, 10	_	
Awaiting Accept/Decline	No	Related Enquiry	90,	Employee Status	
Created On	20/02/2023 4:31 PM	680 (1	C	Is apprentice or trainee?	Neither
		3		Employment start date	1/01/2023
CUSTOMER/ORGANISATI	ON	Sie Me		Employment end date	
Customer		Legal Name		Employment end date	
Enquirer Type	Employer representative	Judge			
EMPLOYEE LOCATION					
Suburb	200	Postcode			
State	<b>Y</b>				

Enquiry: 2956612 Pag(1A-01804) 182

#### Information Media and **Industry Level 1** NOMINATED TO ACT ON CUSTOMER'S BEHALF Telecommunications **Full Name Industry Level 2** Publishing (except Internet and Music Publishing) **Phone Email Industry Level 3 Software Publishing** Software Publishing **Industry Level ATTEND FWO OFFICE Interpreter Required** No Can attend FWO office (if required) Yes **Instrument Type** Fair Work Act **FWO Office** VIC - Melbourne Language **Employer Association** ATIS Phone number: Infoline: **Pre-Post Reform** Account **Bound To Award** Access

#### **ENQUIRY DETAILS**

DESCRIPTION ACTIONS & SOLUTIONS

Under the general retail industry award - do full time and part time employee need to have start and finish times either agreed as per the contract or agreed as per a roster? If there is no agreement to vary said start and end times does overtime apply? If there is an agreement to start and end times as per a roster, how often can rosters change? what notice do you need to give employees of such roster? or is it okay to change the roster ie. weekly with a full time employee having different shifts that previously, for example one week the employee has penalty payments and need week they don't? OR Do i only need to maintain guaranteed hours and not start and end times which means I can change the hours at anytime

Dear

Thanks for your enquiry.

You've asked about agreed hours & rostering requirements under the General Retail Industry Award 2020. I've attached a link to the award under the Related objects.

**ORGANISATION DETAILS** 

Please refer to the following clauses:

Clause 9 - Full-time employees

Enquiry: 2956612 Pagel A-d (804) 183

Clause 10 - Part-time employees **ENQUIRY TREATMENT & SUMMARY** 10.5 - written agreement required on regular pattern of work **Team Treatment** 10.6 - changes to pattern of work by agreement 10.10 - changes to pattern of work by employer 10.8 - overtime Recommended Advice **Treatment** Clause 15.9 - Notification of rosters **Assessment Summary** Pay & Wages: (OVERTIME) If you have any follow up questions, please call us back on +61 2 6120 8989 between the hours of 8:00 am to 5:30 pm Monday through Friday AEST, or you can submit an enquiry to us online via My account. Regards Fair Work Ombudsma **Mediation Conducted Forward Reason** religion in the line in the li Advice Provided

#### **DETAILS FOR KNOWLEDGE TEAM**

**DETAILS FOR KNOWLEDGE TEAM** 

**Background Information** 

Specific questions/issue to be addressed

**Recommending Team Lead** 

Legislation/ Indstrial instruments considered

Quality Coach/TL Opinion

#### **MONIES RECOVERED**

Total (all non-confidential payments)

Total employees paid relating to enquiry

Payment Type	~0	Confidential	Amount	Created On	Created By	Payment Date	No. of Employee
			No Mo	ney Recovered records a	re available in this view.		

Enquiry: 2956612 Pag(1A-01804) 184

0 - 0 of 0 (0 selected) Page 1

#### **RELATED OBJECTS**

Customer	Link Type	URL	Recotinoveladge Object Title Link	
	External	https://awardviewer.fwo	23/02/2023 10:40 AMLinked Knowledge Object records are available in this view.	
	External	https://www.fairwork.gov	0 -20/02/2023 rk:33 g)M Page 1	
	External	https://www.fairwork.gov	20/02/2023 4:31 PM	
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1 - 3 of 5 (0 selected)		Page 1		

#### NOTES AND INTERACTIONS

**SPECIAL CATEGORIES NOTES AND ACTIVITIES** 

Title: Incomplete MyAccount Enquiry has been set to Draft

Incomplete MyAccount Enquiry has been set to Draft Created On: 20/02/2023 4:31 PM Modified On: 20/02/2023 4:31 PM Service CSSWebUser 20/02/2023 4:31 PM

Name	Owner
90,	No Special Category records are available in this view.
0 - 0 of 0 (0 selected)	Page 1

#### **EMAIL ADDRESSES**

Email Source Type	Name	
	No Enquiry Email Link records are av	ailak
0 - 0 of 0 (0 selected)	Page 1	

## **REQUEST FOR ASSISTANCE**

released Free or Issue discussed with the Employer ADDITIONAL EMPLOYEE DETAILS

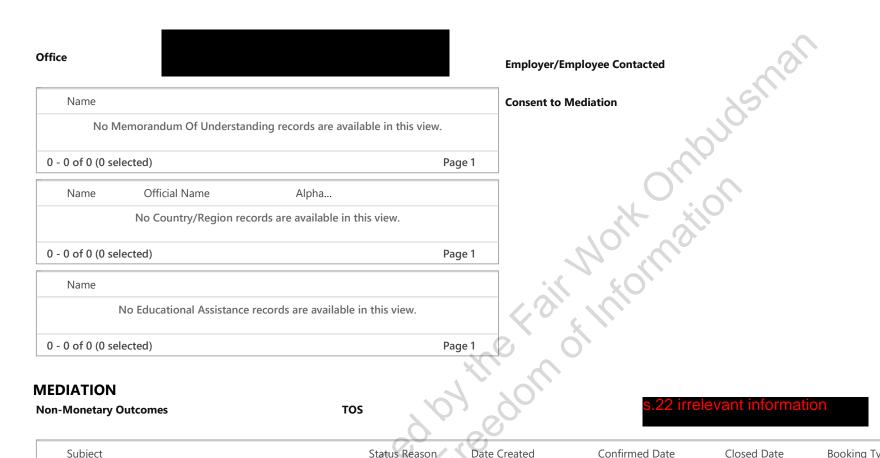
Employee Received Paid Leave

No

Reason for not discussing the issue

Employee's Date of Birth		Employer's Response	
Is Employee an Intern	No	45/11	
Working as an Independent Contractor	No	Are Other Employees affected	
Contractor or Employee		Pay Rate (Before tax)	
PERMISSION TO CONTACT THE	EMPLOYER	- Name Descri	ption Created
Privacy Consent		No Supporting Evidence records are available	in this view.
Confidential	No	0 - 0 of 0 (0 selected)	Page 1
Permission to Contact Employer		Name COI Ty	/ре
Full Name		No Classification of Issues records are available in this vi	ew.
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Phone	10	Category Topic	
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	ille ille	CASE DETAILS	
	45 281	Is Suitable For Case Study No	
	"Weyl, NUO	Case Study Reason	
OFFICE ADDRESS	cumerité l'élegéel l'élegé	Is Suitable For Follow Up No	
CTTCL ADDICES		CONSENT TO MEDIATION	

Enquiry: 2956612 Pag(1/A-018804) 186



#### **MEDIATION**

**Non-Monetary Outcomes** TOS

Subject	Status Reason Date Created	Confirmed Date	Closed Date	Booking Type	Employee
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0 - 0 of 0 (0 selected)	16, 11,				Page 1
Title	Owner Created On				
	You do not have permission to access these records. Contact your	Microsoft Dynamics CRM	administrator.		
0 - 0 (0 selected)	(1)				Page 1

#### **LEGAL ADVICE PROGRAM**

What is the issue that requires tailored legal advice (as per the assessment criteria)?

Enquiry: 2956612 Pag(1)A-01804) 187

For current assessment criteria, see the following PACSR link Workplace Legal Advice Program

Legal Advice ID number **Referral Contact** 

**EMPLOYER ADVISORY SERVICE** 

**Eligible for EAS?** 

**EAS Request Details** 

Suitable for EAS Case Study No

**EAS Case Study Reason FWO Legal Advice**  Enquiry: 2956612 Pag(1/A-d1804) 188

Document Name	Document ID	Docu <b>irine Reformation</b>	Legal Firm	Statu
	No Document Link records are available i	n this view.	No ELP Request re	ecords are available in this view.
0 - 0 of 0 (0 selected)	Page 1	0 - 0 of 0 (0 selected)		Page 1

#### **INTRINSICS**

ner Reset Password View Organisation **Avaya Contact ID** Skillset MyAccount PureCloud ID Search Organisation View Customer

Search Employer

Enquiry: 2957095 Pag(1A-d1804) 189

## **Enquiry**

# 2957095

Enquiry No.	:	Status	Status Re	eason		Total Time Open (days)	
2957095		Resolved	Advice P	rovided		3	
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ENOUIDV				101.	7		
ENQUIRY				$\mathcal{N} = \mathcal{N}$			
No of employees	1,000	Channel	My Account	EMPLOY	EE DETAILS		
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<b>Enquiry Type Level 1</b>	<b>Entitlements</b>	State	Multi-state	Occupati	on		
<b>Enquiry Type Level 2</b>	Overtime	Matter Number (Nexus)		Main Du	ties	Not applicable	
			100 C	)			
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		· ·			<b>C</b> 1. 1		
Awaiting Accept/Decline	No	Related Enquiry	, 00	Employe	e Status		
Awaiting Accept, Decime	140	Related Eliquity	-6)				
Constant On	21/02/2022 0.50 444		.0	Is apprer	ntice or trainee?	Neither	
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CUSTOMER/ORGANISATION	ON	(C) X		— Employn	nent end date		
Customer	A	Legal Name					
Enquirer Type	Employer representative	0					
inquire. Type	zmproyer representative						
EMPLOYEE LOCATION							
Suburb	200	Postcode					
State	<b>Y</b>						

Enquiry: 2957095 Pag(1A-d1804) 190

NOMINATED TO ACT ON CUSTOMER'	S BEHALF			Industry Level 1	Information Media and Telecommunications
Full Name				Industry Level 2	Publishing (except Internet and Music Publishing)
Phone		Email		Industry Level 3	Software Publishing
ATTEND FWO OFFICE			4	Industry Level 4	Software Publishing
Can attend FWO office (if required) N	lo	Interpreter Required N	• ,\0	Instrument Type	Modern Award
FWO Office		Language	11/1/2	Employer Association	
ATIS Phone number: S.22	Infoline: Account	Customer <u>Sol</u> utions: Account number <u>S.</u> number <u>S.</u>	22 Access	Pre-Post Reform	
	number <mark>S.22</mark> Access	*Ke	0,	Bound To Award	
	number <mark>S</mark> .	10 Kg			

#### **ENQUIRY DETAILS**

#### DESCRIPTION ACTIONS & SOLUTIONS

If an employee works through their meal break under the retail award where does the overtime trigger.

Employee guaranteed hours are 7.6 hours - 5 days a week - 9am to 5.06pm. Employee usually has a 30 minute lunch break.

If an employee works through their lunch break on a Monday and takes no lunch breakwhere does overtime trigger?

Is it at 4.36pm on Monday - triggered by in excess of daily guaranteed hours or at 4.36pm Friday outside of 38 hours per week

None

**ENQUIRY TREATMENT & SUMMARY** 

Hi

Thank you for your My Account enquiry regarding overtime.

Under the General Retail Award 2020 overtime for a full-time employee applies when the employee works,

• more than the maximum number of ordinary hours of work (per day or per week)

**ORGANISATION DETAILS** 

- outside the spread of ordinary hours
- · outside the roster conditions.

Overtime is calculated on a daily basis (21.2 (d)) Therefore if the employee worked in excess

Enquiry: 2957095 Pag(1A-01804) 191

**Team Treatment** 

Recommended **Treatment** 

Advice

**Assessment Summary** 

relevant Information

of her ordinary hours on the day, overtime is calculated on that day.

Please note that clause 16 Breaks, provides the entitlements and employee has to both rest and unpaid break. The timing and duration of rest & meal break need to be included in a roster and the employer must seek to ensure the employee has meaningful breaks.

I trust this information is of assistance.

If you have any further questions, please feel free to contact the Fair Work Ombudsman on 13 13 94.

Regards,

Fair Work Ombudsmar

**Mediation Conducted** 

**Forward Reason** 

#### **DETAILS FOR KNOWLEDGE TEAM**

#### **MONIES RECOVERED**

			FWO Outcom	ne Advice Provic	led	
			24 %.			
DETAILS FOR KNOWLEDGE TEAM	И	00				
DETAILS FOR KNOWLEDGE TEAM		S (				
Background Information		0,00	Legislation	/ Indstrial instruments co	nsidered	
Specific questions/issue to be addressed	\$ (C)		Quality Coa	ch/TL Opinion		
Recommending Team Lead	*5	e				
MONIES RECOVERED	200					
Total (all non-confidential payments)	6 O.		Total employ	ees paid relating to enqu	iry	
Payment Type	Confidential	Amount	Created On	Created By	Payment Date	No. of Employee
$\bigcirc$		No Moi	ney Recovered records are	available in this view.		

Enquiry: 2957095 Pagel A - 1804) 192

0 - 0 of 0 (0 selected)

Page 1

#### **RELATED OBJECTS**

Customer	Link Type	URL	Recd <b>⁄moveledge</b> Object Title
	External	https://www.fairwork.gov	21/02/2023 9:50 AMLinked Knowledge Object records are available in this view.
	External	https://www.fairwork.gov	0 -21/02/2023e.R:5(e.d)M Page 1
	External	https://www.fairwork.gov	21/02/2023 9:52 AM
1 - 3 of 4 (0 selected)		Page 1	No in

#### **NOTES AND INTERACTIONS**

**NOTES AND ACTIVITIES** SPECIAL CATEGORIES

Title: Incomplete MyAccount Enquiry has been set to Draft

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Service CSSWebUser 21/02/2023 9:50 AM

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#### **EMAIL ADDRESSES**

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uiry has been set to Draft	Name	Owner
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(8) 11/1		No Enquiry Email Link records are avail
18, 18,	0 - 0 of 0 (0 selected)	Page 1
E WOLL THO	Issue discussed with the Employer	

#### **REQUEST FOR ASSISTANCE**

Issue discussed with the Employer ADDITIONAL EMPLOYEE DETAILS

**Employee Received Paid Leave** Reason for not discussing the issue

**Employee's Date of Birth Employer's Response** 

Is Employee an Intern	No	35	US.
Working as an Independent Contractor	No	Are Other Employees affected	
Contractor or Employee		Pay Rate (Before tax)	ency
PERMISSION TO CONTACT THE	EMPLOYER	- Name	Description Created
Privacy Consent			records are available in this view.
Confidential	No	0 - 0 of 0 (0 selected)	Page 1
Permission to Contact Employer		Name	COI Type
Full Name		No Classification of Issues records a	
Phone		0 - 0 of 0 (0 selected)	Page 1
	K	Category Topic	
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MESSAGES	60 (10	1 - 1 of 1 (0 selected)	Page 1
	60,00	CASE DETAILS	
	10, 11,	Is Suitable For Case Study No	
	chweyie ingerine	Case Study Reason	
	CIII	Is Suitable For Follow Up No	
	)	CONSENT TO MEDIATION	
Office			

Enquiry: 2957095 Pag(1A-01804) 194

Te Fair Mork Onditon Name No Memorandum Of Understanding records are available in this view. 0 - 0 of 0 (0 selected) Page 1 Official Name Alpha... Name No Country/Region records are available in this view. 0 - 0 of 0 (0 selected) Page 1 Name No Educational Assistance records are available in this view. Page 1 0 - 0 of 0 (0 selected)

.22 irrelevant information

#### **MEDIATION**

**Non-Monetary Outcomes** 

TOS

Subject Status Reason **Date Created** Confirmed Date Closed Date Booking Type Employee 1 No Booking Activity records are available in this view. 0 - 0 of 0 (0 selected) Page 1 Owner Created On Title You do not have permission to access these records. Contact your Microsoft Dynamics CRM administrator. 0 - 0 (0 selected) Page 1

## **LEGAL ADVICE PROGRAM**

What is the issue that requires tailored legal advice (as per the assessment criteria)?

Enquiry: 2957095 Pag(1)A-01804) 195

For current assessment criteria, see the following PACSR link Workplace Legal Advice Program

Legal Advice ID number **Referral Contact** 

**EMPLOYER ADVISORY SERVICE** 

**Eligible for EAS?** 

**EAS Request Details** 

Suitable for EAS Case Study No

**EAS Case Study Reason FWO Legal Advice**  Enquiry: 2957095 Pag(1/A-d1804) 196

No Document Link records are available in this view.  No ELP Request records are	re available in this view.	
Document Name Document ID Document ID Document Martin Legal Firm	Status	I

**INTRINSICS** 

**Enquirer ABN Avaya Contact ID** Skillset MyAccount

PureCloud ID

et Password View Organisation Search Organisation View Customer

Search Employer

Phone C				29	Mail
Call	made yes	terday t	he 22.2.23	to the	• • •
Priority <b>Normal</b>	D	ue	Status <b>Completed</b>	Onion	Owner S.
Phone Call Subject	Call made yesterday the 22.2.23 t	o the EE - We discussed thi	s matter and also 2957095 - ERR is	Regarding	2956612
Call From Call To	& S.		Kall Hull	Duration Callback	No
Skillset		Direction	Outgoing	Created On	23/02/2023 11:03 AM
Phone Number		Avaya Contact ID Pure Cloud ID	16690,		
Communication Type	Phone Call	Communication Source	External		
Description	*5				

Call made yesterday the 22.2.23 to the EE - We discussed this matter and also 2957095 - ERR is concerned that the retail award is not making senses when it comes to certain areas, especially when it comes to overtime for a FT/PT EE.

ERR is saying they have received information in the past that is not in line with other information they've received so the ERR has asked again for me to review this matter and get back to them.

I'm in the process of currently speaking through this with my coach.

Phone C				20	Main
Call	made yest	erday t	he 22.2.23	to the	•••
Priority <b>Normal</b>	Du	е	Status Completed	Onion	Owner S.
Phone Call Subject	Call made yesterday the 22.2.23 to	the EE - We discussed thi	s matter and also 2956612 - ERR is	Regarding	<i>№</i> 2957095
Call From Call To	å S.		Kall Huje	Duration Callback	No
Skillset		Direction	Outgoing	Created On	23/02/2023 11:02 AM
Phone Number		Avaya Contact ID Pure Cloud ID	16800		
Communication Type	Phone Call	Communication Source	External		
Description	45				

Call made yesterday the 22.2.23 to the EE - We discussed this matter and also 2956612 - ERR is concerned that the retail award is not making senses when it comes to certain areas, especially when it comes to overtime for a FT/PT EE.

ERR is saying they have received information in the past that is not in line with other information they've received so the ERR has asked again for me to review this matter and get back to them.

I'm in the process of currently speaking through this with my coach.

#### **Email**



#### **Email**

#### **Attachments**

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	riority <b>Iormal</b>	Due		Status Reason Sent	OWIN	Owner S
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0 - 0 0	of 0 (0 selected)	C),		Page 1		

Morning

Thank you for your time on Wednesday.

Email:

I can see that both your enquires were closed and a response was made, apologise that this happened and not by myself, there was a technical issue that saw these enquires assigned to the other advisors, hence why they responded.

Pag(1/A-01/8004) 200

However, to follow on from our conversation about the retail award and clause 15.6 Full-time employees and then 15.6 (h) in particular, I can confirm that after reviewing this matter if the employee, did work more than 7 hours and 36 minutes over that 5 days it would not automatically mean they receive overtime payments.

As we discussed, as per clause 21 (overtime) and employee will be paid overtime if: https://www.fairwork.gov.au/employment-conditions/hours-of-work-breaks-and-rosters/hours-of-work/when-overtime-applies

#### **Full-time**

more than the maximum number of ordinary hours of work (per day or per week) outside the spread of ordinary hours

https://www.fairwork.gov.au/employment-conditions/hours-of-work-breaks-and-rosters/hours-of-work

outside the roster conditions.

Outside the roster conditions includes:

for employees who don't regularly work Sundays

working more than 6 days in a row (unless they only work 4 days in a row the next week)

not getting 2 days off in a row each week (unless they agree not to)

not getting 3 days off in a row in a fortnight (unless they agree not to)

for employees who regularly work Sundays, not getting 3 days off in a row, that includes a Saturday and Sunday, over 4 weeks (unless they agree not to).

#### **Part-time**

Part-time employees get overtime rates if they work more than their agreed 'guaranteed hours' (the agreed number of hours to be worked on each day of the week).

An employer and employee can agree to vary the employee's guaranteed hours on a temporary or ongoing basis. Learn more about the rules for guaranteed hours at Part-time employees. Select the retail industry to check entitlements that apply for the Retail Award.

I hope this helps with this question, I'll send a separate email in regards to your other question.

#### Regards

-

- Fair Work Ombudsman

Regarding

**J** 295661

**Duration** 

## **Email**



#### **Attachments**

Email			ASIMO
			198,
			20.
Priority <b>Normal</b>	Due	Status Reason Sent	Owner S.
Email From	Fair Work Ombudsman (Do Not Reply email)	Status Reason Sent	•
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Subject	9/0	),,	
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Created On	24/02/2023 9:44 AM		
Attachments	*5 20		
File Name	File Size (Bytes)		
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0 - 0 of 0 (0 selec	ted)	Page 1	

Morning again

In relation to your enquiry relating to meal breaks under the retail award.

https://www.fairwork.gov.au/employment-conditions/hours-of-work-breaks-and-rosters/breaks

When a meal break isn't given

There is no extra payment (eg. penalty rate) for not getting a meal break.

As per the above information, if an employee isn't given a meal break, there is no penalty rate or overtime that applies under the retail award. However, this may be of concern for worksafe that this employee isn't receiving a break but also from a fair work ombudsman point of view, this may lead to a technical breach of the award.

As a meal break is unpaid, if this is not given the hours worked would be for the whole time, for example - 9am to 5pm (Monday to Friday) = 8hrs worked, if an employee takes their unpaid meal break, they would have worked 7.5hrs, however as there was no unpaid period, the day would be seen as 8hrs worked. So, if this were to happen over a 5 day week, the employee would have worked 40 hrs and as per overtime, an employee who works more than 38 hours per week (on average) would be paid overtime.

https://www.fairwork.gov.au/employment-conditions/hours-of-work-breaks-and-rosters/hours-of-work

https://www.fairwork.gov.au/employment-conditions/hours-of-work-breaks-and-rosters/hours-of-work/when-overtime-applies

I hope this helps answer the question but for further clarity, if required, please call us back for further assistance.

Regards

- Fair Work Ombudsman

Regarding

**2957095** 

Duration

Doguments released by the Freedom of Information

Enquiry: 2968545

Pag(1A-d1804) 205

## **Enquiry**

# 2968545

Enquiry No.	Sta	atus	Status Reason		Total Time Open (days)
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ENQUIRY			_\0		
No of employees	1,000	Channel	My Account	EMPLOYEE DETAILS	
			. ( )	EMPLOYEE DETAILS	
Enquiry Type Level 1	<b>Entitlements</b>	State	Multi-state	Occupation	
			( , )		
Enquiry Type Level 2	Meal Breaks	Matter Number (Nexus)	0	Main Duties	N/A
		Matter ID number (Titan)	1/1		
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Awaiting Accept/Decline	No	Related Enquiry	) -00	Employee Status	Unsure
Attracting Accept, Decime		nelatea ziiqaii y	200	Is apprentice or trainee?	Noithar
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CUSTOMER/ORGANISATION	ON			Employment end date	
Customer	A=	Legal Name			
	XS	70.			
Enquirer Type	Employer representative	100			
	201				
EMPLOYEE LOCATION					
Suburb	70	Postcode			
State					
Jace					

Enquiry: 2968545 Pag(#A-41804) 206

NOMINATED TO ACT ON CUSTOMER'S	S BEHALF			Industry Level 1	Information Media and Telecommunications
Full Name				Industry Level 2	Publishing (except Internet and Music Publishing)
Phone		Email		Industry Level 3	Software Publishing
ATTEND FWO OFFICE			4	Industry Level 4	<b>a</b> Software Publishing
Can attend FWO office (if required) N	o	Interpreter Required No	10	Instrument Type	Modern Award
FWO Office		Language	il No	Employer Association	
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	number <b>S.22</b> Access	- Inc	0)	Bound To Award	
	number <mark>S.</mark>	10/10			

#### **ENQUIRY DETAILS**

#### DESCRIPTION ACTIONS & SOLUTIONS

No other issues

I am questioning the information within this link https://www.fairwork.gov.au/employment-conditions/hours-of-work-breaks-and-rosters/breaks

Specifically the statement An employee gets the following number of breaks, depending on the hours they actually work (not their rostered hours).

Do i interpret this as an employee needs to be rostered for 5 hours and 30 minutes before the are entitled to a meal break of 30 minutes?

Or are the rostered for 5 hours, work 5 hours and are entitled to the meal break and thus are paid for 4.5 hours

Hi

Thank you for your My Account enquiry and for supplying the requested additional information.

ORGANISATION DETAILS

It appears that you are wondering when an employee is entitled to a meal break under the General Retail Industry Award. See link to Award attached.

As per clause 16, an employee is not entitled to an unpaid meal break unless their hours worked on a given shift exceed 5 hours. This depends on the hours they actually work (not their rostered hours).

Enquiry: 2968545 Pag(1A-01804) 207

#### **ENQUIRY TREATMENT & SUMMARY**

**Team Treatment** 

Recommended

**Assessment Summary** 

**Treatment** 

Advice

Irrelevant Information

If an employee works 5 hours (or less), they are not entitled to an unpaid meal break. If an employee works any more than 5 hours (e.g. 5 hours and 30 minutes), they are entitled to an unpaid meal break.

For example, an employee is rostered between 12pm - 6pm. The employee works 5 hours and 30 minutes and is provided a 30 minute unpaid meal break.

If you have any further questions, feel free to contact us on 13 13 94 (Monday-Friday 8am-5:30pm AEST).

Kind regards,

Fair Work Ombudsman

**Mediation Conducted** No

**Forward Reason** Response to Request for Information Received

#### **DETAILS FOR KNOWLEDGE TEAM**

#### MONIES RECOVERED

			FWO Outco	me Advice Provided		
		. \	24 90,			
DETAILS FOR KNOWLEDGE TEA	M	00	6			
DETAILS FOR KNOWLEDGE TEAM		25				
Background Information		0, 0	Legislation	/ Indstrial instruments consid	ered	
Specific questions/issue to be addressed	. (O)		Quality Co	ach/TL Opinion		
Recommending Team Lead	25	e				
MONIES RECOVERED						
Total (all non-confidential payments)	10 01		Total emplo	yees paid relating to enquiry		
Payment Type	Confidential	Amount	Created On	Created By	Payment Date	No. of Employee
$\bigcirc$		No Mo	ney Recovered records ar	e available in this view.		

Enquiry: 2968545 Pagel A - of 18604) 208

0 - 0 of 0 (0 selected)

Page 1

#### **RELATED OBJECTS**

Customer	Link Type	URL	Recot/moveledge Object Title
	External	https://awardviewer.fwo	9/03/2023 9:28 AMLinked Knowledge Object records are available in this view.
	External	https://www.fairwork.gov	0 - <del>0</del> /0362023-R:05-AM Page 1
	External	https://www.fairwork.gov	4/03/2023 9:05 AM
1 - 3 of 7 (0 selected)		Page 1	No in

#### **NOTES AND INTERACTIONS**

**NOTES AND ACTIVITIES SPECIAL CATEGORIES** 

Title: Incomplete MyAccount Enquiry has been set to Draft

Incomplete MyAccount Enquiry has been set to Draft

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Name	Owner	
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#### **EMAIL ADDRESSES**

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45 20	0 - 0 of 0 (0 selected)	Page 1
E SULLINO		
	Issue discussed with the Employer	
) No.		

#### **REQUEST FOR ASSISTANCE**

ADDITIONAL EMPLOYEE DETAILS

**Employee Received Paid Leave** 

Reason for not discussing the issue

**Employee's Date of Birth** 

**Employer's Response** 

Is Employee an Intern	No		3Mgr
Working as an Independent Contractor	No	Are Other Employees affected	
Contractor or Employee		Pay Rate (Before tax)	urrency
PERMISSION TO CONTACT THE	EMPLOYER	Name	Description Created
Privacy Consent			ce records are available in this view.
Confidential	No	0 - 0 of 0 (0 selected)	Page 1
Permission to Contact Employer		Name	COI Type
Full Name		No Classification of Issues record 0 - 0 of 0 (0 selected)	ds are available in this view.  Page 1
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Email	903	Conditions Breaks	
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	chweyie ing	Case Study Reason	
		Is Suitable For Follow Up No	
	)	CONSENT TO MEDIATION	
Office			

Enquiry: 2968545 Pag(1/A-df804) 210

# The Pair Work of the Principle of the Pair Name No Memorandum Of Understanding records are available in this view. 0 - 0 of 0 (0 selected) Official Name Alpha... Name No Country/Region records are available in this view. 0 - 0 of 0 (0 selected) Name No Educational Assistance records are available in this view. 0 - 0 of 0 (0 selected)

#### **MEDIATION**

**Non-Monetary Outcomes** 

TOS

Subject	Status Reason Date Created	Confirmed Date	Closed Date	Booking Type	Employe
	25		No Booking Activity	records are available	in this view.
0 - 0 of 0 (0 selected)	26 10				Page 1
Title	Owner Created On				
	You do not have permission to access these records. Contact your	Microsoft Dynamics CRN	1 administrator.		
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## **LEGAL ADVICE PROGRAM**

What is the issue that requires tailored legal advice (as per the assessment criteria)?

Enquiry: 2968545 Pag(1)A-01804) 211

For current assessment criteria, see the following PACSR link Workplace Legal Advice Program

Legal Advice ID number **Referral Contact** 

#### **EMPLOYER ADVISORY SERVICE**

**Eligible for EAS?** 

**EAS Request Details** 

Suitable for EAS Case Study No

**EAS Case Study Reason FWO Legal Advice**  Enquiry: 2968545 Pag(1/A-d18004) 212

Document Name	Document ID	Docu <b>indentelobation</b>	Legal Firm	Status
	No Document Link records are available in	n this view.	No ELP Request rec	ords are available in this view.
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#### **INTRINSICS**

ner Reset Password View Organisation **Avaya Contact ID** Skillset MyAccount PureCloud ID View Customer

Search Employer

Search Organisation

# 11:20am 07/03/2023 - outbound custo... Priority

Priority	Due		Status	$O_{II}$ , $\sim$	Owner
Normal			Completed	.:.0	<b>\$.22</b>
Phone Call Subject	11:20am 07/03/2023 - outbound cust	omer 1st attempt, no a	nswer.	Regarding	<b>№</b> 2968545
Call From	& S.22		Call In	Duration	
Call To	A=		(0)	Callback	No
Skillset		Direction	Outgoing	Created On	7/03/2023 11:21 AM
Phone Number		Avaya Contact ID	, 60.		
		Pure Cloud ID			
Communication Type	Phone Call	Communication Source	External		
Description	*6	(0)			
11:20am 07/03/2023 - outbound customer 1st attempt, no answer.					



## **Request for Additional Information**

# Your enquriy 2968545 - Request for ad...

Activity Status **Completed** 

#### **GENERAL**

Subject Your enquriy 2968545 - Request for additional Date Created 7/03/2023 11:22 AM

information

Regarding 2968545 Owner S.22

Request Hi

Thank you for your My Account enquiry. I tried to call you but was unable to reach you.

In order to respond to your enquiry, I will require the below additional information:

1. What Award are you referring to?

Please be advised that if I do not receive a response in the next 48 hours, I will answer your enquiry with the limited information provided. I will attempt to contact you again in 2 days.

Kind regards,

Fair Work Ombudsman

Response General Retail Industry Award - apologies

**NOTES**