



## AMALGAMATED WORKERS UNION SOUTHERN NZ INC

OWEN JOHNSTONE AUTHORISED REPRESENTATIVE  
MARCH / APRIL 2010

EMAIL: [AWUNZ.INGILL@XTRA.CO.NZ](mailto:AWUNZ.INGILL@XTRA.CO.NZ) (LOWER CASE)

### WELCOME TO OUR SOUTHERN NEWSLETTER



## WE ARE HERE FOR YOU!!

### MEMBERSHIP IS GOOD INSURANCE!

#### OF INTEREST

##### CONTACT HOURS

**Mon to Friday 8am to 5pm and 7pm till 9m evenings; mobile or land-line. Contact outside these hours urgent or pre-planned—emails are welcome anytime**

**Owen: 029 477 6026**

**Employment Law re-search employment law through the Department of Labour web site (Employment Relations) and look for Fact Sheets.**

- **Emails using modern media to enhance services to members. If you have an email address send Owen an email confirming your email address.**
- **Sign up on line thank you to new members signing up online through our Awunz web page, real simple and no hassle!**

**"Awunz has been looking after Kiwi workers for 129 years' That's impressive!**

#### RESTRUCTURING

The first thing to know when redundancy is a probable outcome of restructuring is that it is the 'position' not the person declared superfluous to requirements.

Where an employer makes a decision to restructure its business and job losses are inevitable it is important that the employer follow a fair and reasonable process to determine who goes and who stays. Last on first off is not an automatic solution but is used when the selection criteria and attributes are very similar between employees.

Case law has reinforced the employers right to decide whether to restructure or not, and the Authority won't interfere, however the decision must be 'genuine', that is, a good reason must exist to do so, it can't be, for example, carried out just to rid the business of certain staff.

The most important area for employees during the restructuring process is the selection criteria, who goes, who stays.

To ensure the selection process is fair to all employees the employer should set out in writing advising the business is to undertake a restructure process, giving advance notice and the reason (s) this has to take place.

The letter will normally take the shape of a 'proposal to restructure' and apart from giving notice and the reason (s) the letter should spell out which positions are being considered as superfluous to requirements, how the selection process will operate and what attributes the employer will measure employees against.

This knowledge is critical to employees when invited to an interview offering opportunity to state their case as to why they should be kept on.

Employees, individually or collectively are able to make suggestions about saving jobs during this process and should make an effort to be involved as a group rather than standing alone.

#### Cont:

While there is no set process for a redundancy, the Employment Relations Act 2000 requires consultation with potentially affected employees about a proposal, before any final decisions are made. In addition, the common law makes it clear that consultation is more than notification and the process must not be a sham. Basically, the process under New Zealand law requires an employer to provide potentially affected employees with a memorandum which outlines what is proposed and why. The employees should be provided with sufficient information in order to be able to provide feedback on the proposal, including possible alternatives and this feedback, including any possible alternatives, must be considered by the employer prior to any final decisions being made. Its important for employees to talk with their employer if a sense exists that the business is slowing down; doing this early may avoid redundancies further down the line; mutually agreeing with the employer on a 'business recovery action plan' is not a stupid idea it's a 'positive process' that keeps everyone involved and informed. I have seen this mutual recovery process operate and the fundamental aspect for all involved was knowing what was happening first hand rather than being kept in the dark was good for moral, and the importance of enabling employees and their families to plan ahead and prepare for a worse case scenario.

**'New Employee' 30 day rule** where a collective agreement exists all new employees are covered by its terms and conditions for the first 30 days and continue to be covered if they become a union member; if not they stand alone on an individual agreement. Collective agreements and union membership helps ensures new workers on the job are less able to be used by employers to undermine existing the terms, conditions and values of Kiwi workers. **Union membership and collective bargaining is your shield.**

#### LEGAL ACTION

Since Christmas I've been busy taking preparing for several Employment Relations Authority hearings and have completed several mediations. Also dealing with several ACC claims and reviews.

##### Collective Bargaining

The economic situation going into bargaining is not favorable with most employers unlikely to willingly step up and give a much needed wage increase to offset cost of living adjustments. Union members engaged in collective bargaining are far more likely to receive a wage increase than those on individual agreements, **remember it takes just two workers to form a collective agreement!**

**90 Day Trial Period** A women has been awarded more than \$16,000 after she was unjustifiably dismissed from her job, despite being employed for fewer than 90 days. She worked as a receptionist and assistant until she was dismissed without reason. The Employment Relations Authority said he dismissal in the course of a performance review without any warning her position was at risk, was unjustifiable. The ERA said 'the 90 day trial period does not exempt an employer from the duty of providing the opportunity for an employee to be heard when dismissal is contemplated'.

**Some days Ya Can't Win** bloke when asked about union membership, said; *what's the union ever done for me!* When asked if he'd ever been in a union, he said *NO!* When asked if he buys cars without checking them out first, he said *NO!*, after a short pause he said, *'fuck of smart arse!'* The 'bloke' later had problems at work and got screwed! His lawyers bill in the thousands, probably take \$50 a week 'foreva' to pay off!

**\$260 a year for Awunz membership by comparison - 'Get Real its Obvious' SIGN UP! on our web site**

**AWUNZ WEBSITE IS AVAILABLE TO ALL MEMBERS AND POTENTIAL MEMBERS - GO TO [WWW.AWUNZ.CO.NZ](http://WWW.AWUNZ.CO.NZ), AND FOR ALL HEALTH INSURANCE PRODUCTS THAT IS AVAILABLE TO ALL MEMBERS GO TO [WWW.TMFNZ.CO.NZ](http://WWW.TMFNZ.CO.NZ).**



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'SUPPORT ORGANIZATION' FOR WORKING PEOPLE

**Members in Invercargill, Balclutha, Alexandra, Cromwell, Queenstown, TeAnau, Winton, Stewart Island - and all points in between**

**IF YOU HAVE A  
PROBLEM AT  
WORK RING OR  
EMAIL US!**

**WE HELP PEOPLE  
BY LISTENING  
AND TALKING  
ABOUT THE  
PROBLEM**

**IF FURTHER HELP  
IS NEEDED WE  
ASK THAT YOU  
JOIN AWUNZ**

**5 STAR HOTEL FOR  
PAMPERED PETS**

**LORNEWOOD  
BOARDING KENNELS  
AND CATTERY**

- 5 minutes from Invercargill
- Std & K.C. Vac. required
- Heated facilities
- Individual sleeping & 10m runs
- All inspections welcome



Monday to Friday  
9.30-11.30am, 4.30-6pm  
Saturday 9.30-11.30am  
Sunday 4.30-6pm  
or by appointment



**Paul and Evelyn Soosal  
PH. 03 235 8563**



**WE ARE HERE FOR YOU!!**

**MEMBERSHIP IS GOOD INSURANCE!**

**90 day trial period cont:**

The company had carried out the dismissal in a manner which indicated a 'total lack of good faith or fair process' the authority said. It also said the worker had been 'unjustifiably disadvantaged' in her employment through lack of adequate training. It ordered the employer to give her 13 weeks pay totaling \$7200 and \$9000 compensation.

*The National Government introduced new legislation last year which gave employers the option of taking people on for trial periods of 90 days, with agreement from the employee, but with the option of dismissing them without legal repercussions, provided conditions are abided by.*

Acting in good faith and following a fair and reasonable process are such conditions which this case demonstrates and a number of similar cases will likely follow in the wake of this ERA ruling.

The message is clear to those employers who think the 90 day trial period allows them to hire and fire at will, without having to justify their decision when called upon by the worker to do so.

**GROUP HEALTH AND MEDICAL**

I have left this article in this newsletter because I want to generate thinking among members to advocate the concept with their employer. This initiative will seriously challenge single stand alone schemes run by many employers; why? Because the cost benefit ratio of a bigger community based group scheme established among participating employers and their employers will far exceed stand alone company schemes and individual policies.

The continued troubles in the public health system, our aging population and the need to have all the skills and experience we have in our economy available for use forms part of my thinking on this but so does cost.

If we were able to have employers join

together as 'participating employers' and for them to make a payment of \$5 for each employee per week (single adult) cost, family members paid for by the worker, we would have our community health and medical group scheme, imagine the potential!

Participating employer group's can get pre-existing cover (existing medical conditions are covered) for all employees in the scheme. As the group grows its able to influence cover, cost and additional services.

The powerful thing about this initiative is that an employer with one employee can join as can an employer with 300.

This initiative really helps aging workers, with a medical condition, (*pre existing conditions cover*) A worker in a single company group medical scheme had a \$15,000 operation and it cost him \$600, so the potential is there to grow a participating employer group scheme.

**Raise Your VOICE !**

Talk to you employer about this initiative, if your employer is keen to have more information please contact me and I will contact your employer and add the name to our growing data base.

**BEEHIVE'S BUZZY BEES**

National's Kate Wilkinson, the Minister of Labour, is in the process of rolling out the 'John Key' Government's wish list for changes to employment legislation, including extending the 90 day trial period, SAY WHAT! And changing the rules around when it is fair to sack workers.

The 'Key' Government will aim at removing the need for employers to observe and apply 'procedural fairness' (*how the process is carried out*) when dismissing a worker. Removing procedural fairness as part of the test of fairness will mean '*as long as the employer can show just cause, how they go about sacking the worker is irrelevant*'.

**WATCH THIS SPACE!**

**MINIMUM WAGE**

The Government has moved to increase the Minimum Wage from \$12.50 to \$12.75 and the training and new entrants' minimum wage from \$10 to \$10.20 effective from April 1 2010.

**Bad employers**

As I travel from community to community I hear many stories about workers being treated badly. Don't get me wrong, there are good employers in our communities too, but it's the bad ones who cause all the grief. One of the most important roles of the union in any community is to make sure bad employers behave. If the union doesn't act against the actions and behavior of bad employers, good employers ask, why not?

The '*protection of workers rights*', is in the interest of all members of the community because '*not all employers are honest!*'

As an Awunz member you are automatically covered for \$ 4,000 if death occurs of natural causes and \$10,000 if death occurs from injuries resulting from an accident on the job. The cost of providing this cover is built into your \$260 annual Awunz fee and is designed to help your family through a tough time.

We have workplaces where union members have a policy whereby union membership is only open to existing employees for 60 days between the initiation for a new collective agreement and the expiry of the old agreement. This does not apply to new employees who have a 30 day period to become a member.

If for example the union negotiates a 2 year agreement; all those workers not in the union at the time cannot join the union during the next 2 years. I believe this is a fair response to those workers who believe they can join the union at will.

**SIGN UP! on our web site**

**Google Awunz Southern  
Owen**

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