

Tasmanian Festival Security Targeted Campaign Report November 2009

Summary

The Tasmanian Festival Security Targeted Campaign was conducted by the Fair Work Ombudsman¹ from December 2008 to July 2009. We initiated the campaign following a referral from the Liquor Hospitality Miscellaneous Union regarding the entitlements paid to security staff working at Tasmanian festivals. In the planning phase of the campaign, we contacted stakeholders, security employers, and festival organisers about our audit process.

We selected five festivals for desk audits. Three contraventions were identified, all of which were voluntarily resolved. Four workers were back paid \$149.00 in total due to an underpayment of wages and there were two record keeping contraventions. We found the educational outcomes of this campaign to be beneficial, as employers had direct contact with Fair Work inspectors, and were able to access relevant information and familiarise themselves with their obligations. The education phase reduced the rate of contraventions, as employers had the opportunity to clarify issues before the festival contracts began.

Background

The Tasmanian Festival Security Campaign was chosen for proactive compliance as a result of an industrial/union referral. In December 2008, the Liquor Hospitality Miscellaneous Union contacted the Fair Work Ombudsman Tasmania to raise concerns over entitlements paid to security staff employed at Tasmanian festivals. These issues had been highlighted by security employees employed at the *Taste of Tasmania* in previous years, with the main issues reported to be underpayment of hourly rates, loadings, overtime and penalty rates.

Campaign Aim and Objectives

The aim of the campaign was to improve compliance with Commonwealth workplace laws in the security industry, and specifically to:

- . Educate employers about their obligations under federal workplace relations legislation;
- . Conduct audits against the relevant industrial instrument, with particular attention paid to:
 - non payment for hours worked
 - underpayment of the prescribed hourly rate
 - non payment of penalty rates, overtime and allowances

¹ Campaigns prior to 1 July 2009 were commenced and undertaken by the Fair Work Ombudsman's predecessor the Workplace Ombudsman.

- record keeping;

. Conduct ongoing education in the security industry as a precursor to the Fair Work Ombudsman's National Security Campaign.

Stakeholder involvement

We contacted the relevant stakeholders prior to the commencement of the Tasmanian festivals by telephone and/or face to face meetings. The following stakeholders were briefed verbally before the start of the campaign:

- a) Hobart City Council – Festival organiser
- b) Launceston City Council – Festival organiser
- c) Liquor Hospitality Miscellaneous Union

The security firms identified as providing security to the upcoming Tasmanian Festivals were:

- Griffin Security – contract for security at the Taste of Tasmania, held from 28 December 2008 to 4 January 2009;
- SL Security – contract for security at Soundscape Festival, held 17 January 2009;
- Elite Protective Services – contract for security at Falls Festival, held 29 December 2008 to 1 January 2009; MS Fest held 7 February 2009, and Festivale held 15 February 2009 to 17 February 2009.

Methodology

We advised the three security companies in mid December 2008 that we would be commencing an audit of time and wage documents, and wage rates, at the conclusion of each festival event. We discussed audit parameters with each company, and advised that we would be auditing classifications, prescribed pay rates, loadings, penalty rates, overtime and any applicable allowances, as well as pay slip and record keeping. We provided the employers with an educational mail out pack containing the following relevant fact sheets:

- About us - The Workplace Ombudsman;
- What records must employers keep? Time and Wages Records;
- Pay slips requirements and best practice;
- Public Holiday and Leave Entitlements; and
- The Powers of Workplace Inspectors.

We held discussions with the security companies prior to commencing the audit, providing an opportunity for them to clarify issues and question areas of uncertainty.

We also held discussions with festival organisers on the commencement of the audit, and advised them of their obligations under the *Workplace Relations Act 1996* in relation to third party involvement in breaches, and how this related to the tender process and contract fulfilment.

In February 2009, we requested that the security companies provide time and wage records. The focus periods were the duration of each of the five Tasmanian festivals.

Workplace Inspectors conducted desk based audits, and assessed the employers' time and wages records against the Security Industry Notional Agreement Preserving State Award (NAPSA), the applicable instrument for all three security companies. All contraventions identified were rectified by voluntary compliance.

Outcomes

Educational mailout packs were distributed to the three security companies, as well as to the festival organisers.

The following table provides a broad overview of the audit findings:

Total Employers Selected	3
Total of Tasmanian Festivals selected for audit period	5
Total Audit Periods Completed	5
Breaches Identified – resolved voluntary compliance	3
Number of festivals where breaches identified	3

The following table provides a breakdown of the breaches identified and monies recovered:

Breach Findings	Number (percentage by comparison to total audited)
Underpayment of the prescribed pay rate and Loadings, penalties and allowances	1
Total Amount Recovered	\$149.00
Number of employees back paid	4
Record keeping breaches identified	2

Issues

There was one minor issue reported, due to an unforeseen circumstance. One of the festivals was due to finish at 1pm. However, police involvement (random breath testing) extended the finish time for security staff to 4pm, and this had a flow on effect to penalty rates. The employer immediately rectified the contravention voluntarily. A point to note is that many staff performing security duties at the Tasmanian festivals were paid an hourly rate above Award entitlements.

Conclusions

This campaign was undertaken to promote compliance with Commonwealth workplace relations legislation at events employing vulnerable workers and a transient workforce. The results of this campaign show a positive outcome in both education of employers and improved compliance.

The educative aspect of this campaign, although quite short, enabled employers to understand what their obligations were and where they could obtain current information. It also enabled them, in speaking directly with Workplace Inspectors in the briefing phase, to clarify issues and check any areas of uncertainty. This resulted in less contraventions as the level of knowledge was higher at commencement of the festival contract periods. There was one slight underpayment of wages identified, which resulted in four workers being back paid a total of \$149.00. Other breaches identified were in relation to the content of pay slips, and these issues were also remedied by way of education and compliance commitment.

This local initiative campaign was seen as a valuable precursor to the Fair Work Ombudsman's National Security Campaign, in relation to both Workplace Inspector knowledge of the Security

Industry NAPSA, and the participating security company's level of compliance and commitment to workplace relations legislative requirements.