

Catering company's treatment of female employee breached discrimination laws

27 July 2012

A catering company discriminated against a female employee at Shepparton in regional Victoria because of her pregnancy, the Fair Work Ombudsman has found.

Holtham Family Pty Ltd, trading as The Soup Box, has agreed to apologise to its former employee and pay her \$2000 compensation following an investigation by the Fair Work Ombudsman.

The company has also agreed to seek specialist workplace relations advice - particularly about discrimination - at its own expense to ensure its future compliance with workplace laws.

Holtham has signed an Enforceable Undertaking with the Fair Work Ombudsman as an alternative to litigation, in which it admits The Soup Box:

- Systematically reduced the woman's hours of work because of her pregnancy and anticipated unpaid parental leave,
- Changed the woman's duties at work because of her pregnancy and anticipated unpaid parental leave,
- Discriminated between the woman and other employees by reducing her shifts because of her pregnancy and unpaid parental leave, and
- Constructively dismissed the woman because of the above conduct.

In a letter of apology to the former employee and a notice to be given to all its staff, The Soup Box expresses its "sincere regret" for its behaviour and gives a commitment that it will not happen again.

The woman, now aged 22, joined The Soup Box as a part-time canteen assistant and cook in February, 2010, after responding to a vacancy advertised in Shepparton.

The Soup Box has a contract to operate a staff canteen providing meals, snacks and drinks for employees at Campbell's Soup Factory at Lemnos.

Just before Christmas, 2010, the woman advised her employer that she was pregnant, but expected to continue her employment until commencing unpaid parental leave at a date to be determined.

However, after her hours were systematically reduced from around 25 hours a week down to three hours a week, the woman resigned, saying she had no choice because the hours were not viable.

The circumstances surrounding the woman's case were investigated after she lodged a complaint with the Fair Work Ombudsman.

In addition to the discrimination, the Fair Work Ombudsman found that The Soup Box had failed to provide the employee with the Fair Work Information Statement (FWIS) before or as soon as practicable after she commenced work.

It also found that The Soup Box had not put any job offer to the woman in writing nor provided a written contract of employment.

Acting Fair Work Ombudsman Mark Scully says it is important for employers to treat workers fairly and be aware of their obligations under workplace laws.

Under the Fair Work Act, it is unlawful to discriminate against employees and prospective employees on the grounds of pregnancy, race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer responsibilities, religion, political opinion, national extraction or social origin.

Discriminatory behaviour can include refusing to employ, promote or train a worker, dismissing an employee, threatening to dismiss an employee or denying training and promotion opportunities.

Mr Scully says every employee has the right to work without fear of discrimination and information about what sort of behaviour constitutes unlawful discrimination is available on the Agency's website.

"Employers who have fair and transparent selection processes for recruitment, promotion, training and other business systems will be well placed to cultivate fair workplaces free of discrimination," he said.

[The Soup Box Enforceable Undertaking \(PDF 783.1KB\) \(www.fairwork.gov.au/ArticleDocuments/721/The-Soup-Box-Enforceable-Undertaking.pdf.aspx\)](http://www.fairwork.gov.au/ArticleDocuments/721/The-Soup-Box-Enforceable-Undertaking.pdf.aspx)

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