



Application ID

20229858

Application lodged

27/09/2024 5:03:28 PM

SAET case number (if blank, quote Application ID)

About this form

This is a copy of the details of an application lodged online to the South Australian Employment Tribunal (SAET) in relation to a Notice of WHS Dispute (section 102B of the Work Health and Safety Act 2012)

APPLICATION SUMMARY**Application type**

A Notice of WHS Dispute (section 102B of the Work Health and Safety Act 2012) (WHS-09)

Applicant(s)**Public Service Association of SA Inc (Union)**

Nominated contact: Mr Zack Jackman

Represented by

Not represented

Respondent(s)**Attorney-General's Department (Employer)**

Nominated contact: Ms Jessica Mensforth

Application Details

Are there any other proceedings before SAET involving the same parties to this application?

No

Is this matter urgent?

Yes

Please provide reasons for why the matter is urgent

Employer is insisting the worker return to unsafe worksite, and is denying that it is unsafe.

Earliest preference date for SAET to schedule a listing

04/10/2024

DETAILS OF THE DISPUTE

WHS matter subject of the dispute

This dispute (as defined in s 102A of the Work Health and Safety Act 2012 is in relation to: [Please pick one or more of the options below)

A matter about work health and safety that is an issue to which division 5 of the Work Health and Safety Act 2012 applies.

An issue about cessation of work under division 6 of the Work Health and Safety Act 2012.

Summary of Dispute

Please outline the issues in dispute between the parties: [Please note that any details you provide will be published on the SAET website and will be viewed publicly.]

The Public Service Association of SA (“PSA”) represents our member who is a residential care Youth Worker with the Department for Child Protection (“DCP”). On Tuesday 24 September 2024, our member ceased unsafe work under Division 6 of the Work Health Safety Act 2012 (“the Act”), after being transferred from one worksite to another in an unsafe manner, and exposure to a serious work health and safety hazard at the new worksite. At 5:02pm on Thursday 26 September, the PSA requested the appointment of a Safework SA inspector to assist in resolving the hazards set out below, pursuant to s82(2) of the Act.

Hazards

At 3:27pm on Friday 6 October 2024, our member was notified by the Area 6D Supervisor he would be reassigned by DCP from his existing worksite, a residential care facility in Hove, to a new worksite, a residential care facility in Huntfield Heights (13 Colonsay Ave) from 21 September 2024. This decision was made without consultation with our member, and instead amounted to a mere advising of what would be done. Additionally, the officer who made the notification finishes work at 4pm on Fridays, not returning to work until Monday, leaving our member unable to address the issue for 3 days in which he worked shifts. This amounts to a psychosocial hazard relating to poor organisational change management through inadequate consultation.

This hazard was compounded as our member gave reasons in support of the status quo, which related to the safety and wellbeing of the young persons at the Hove facility, the young person(s) at the Huntfield Heights facility, and his personal safety as a worker. These reasons were largely dismissed by DCP, as they sought to address staff shortages in prioritising the needs of one facility over another. This amounts to a psychosocial hazard relating to low job control, and inadequate recognition of our member’s recommendations.

Our member does not possess sufficient relevant training or experience to effectively deal with the hazards that present at the new worksite. Our member’s on-the-job experience and achievements have been in the care of adolescent males, including those prone to violent outbursts at the Hove worksite. The young person(s) at the Huntfield Heights worksite have extensive and complex mental health needs, which our member does not feel he adequately possesses. Due to the complex mental health needs at the Huntfield Heights facility, which include risks of a young person self-harming, there is a high risk of exposure to traumatic events. This results in a dangerously intense and sustained high mental and emotional effort required to preform the job. This poor support in the face of excessive job demands presents a psychosocial hazard, as he has been assigned a workplace that is beyond his level of competency.

The worksite in Huntfield Heights additionally creates a physical hazard, with narrow passageways, and an office (where workers may be able to shelter in a potentially violent or traumatic event) that is only accessible by entering the house. This creates a poor physical environment, and increases the likelihood of exposure to harm.

Reasonable Concern of Exposure

The above mentioned psychosocial risks have neither been assessed nor controlled by DCP to our member's best understanding. There exists no risk assessment of the possibility of exposure, and very little guidance regarding the creation of hazards by the young person(s). Therefore when he commenced a shift at the Huntfield Heights worksite on Tuesday 24 September, there was an immediate heightening of a young person at the facility, creating an imminent risk of physical and mental harm for our member. It is highly likely that if he were to return to that site, a similar risk would be apparent.

Reasonable Efforts to Achieve Resolution

Our member identified to DCP the risks associated with his reassignment to a new worksite as soon as he was made aware of the decision, by return email to DCP at 7:15am on Monday 9 September, in similar terms to those expressed above. Our member requested a meeting to discuss more suitable options than the proposed relocation, which was held on Tuesday 17 September.

At that meeting, DCP expressed that they had been following internal redeployment procedures, which may indicate these procedures do not take into account the extensive psychosocial risks of workers in our member's position. It was made clear that as the young person(s) at the Huntfield Heights worksite had recently faced significant trauma, they required a consistent and dedicated team to help them navigate the personal challenges of leaving care. The placement of our member onto this 'dedicated team' ignored his feedback and his own personal circumstances.

Even after ceasing unsafe work, DCP have maintained that our member should still report for work at the Huntfield Heights worksite, and deny that it is unsafe. Therefore we believe the resolution of these issues require the Tribunal's urgent assistance.

Worksite(s) where dispute exists. (Please add address details)
13 Colonsay Ct, Huntfield Heights

What is the outcome you seek at the Tribunal?

Please outline the outcome you seek from the Tribunal. [Please note that any details you provide will be published on the SAET website and will be viewed publicly.]

The PSA seeks the acceptance of the existence of outstanding hazards at the worksite.

The PSA seeks that our member no longer be exposed to the unsafe worksite.

The PSA seeks that departmental policies, procedures and processes be updated to consider psychosocial hazards that exist, to ensure that risks are identified, assessed and managed to ensure worker safety, including but not limited to consultation practices prior to reassignment.

Compliance Powers

Has a decision been made by an Inspector to exercise, or not to exercise, compliance powers under part 10 to assist in resolving the dispute subject to review under part 12 of the Work Health and Safety Act 2012

No