

**BEFORE THE ADMINISTRATIVE DECISIONS TRIBUNAL
OF NEW SOUTH WALES
EQUAL OPPORTUNITY DIVISION**

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14 MAR 2012

ADMINISTRATIVE
DECISIONS TRIBUNAL

Matter No. 111095

Applicant: Jason Bouman

Respondent: Australia Traffic Network Pty Ltd

APPLICANT'S POINTS OF CLAIM

Introduction

1. The Applicant on 30 May 2011 lodged a complaint against both the Respondent, Mr Steven Woods and Mr Bill Pezzimenti alleging breaches of the Anti-Discrimination Act 1977 (the "Act") (the "complaint").
2. This complaint alleges that the Applicant has been subjected to the following conduct of the Respondent and Mr Steven Woods and Mr Bill Pezzimenti discrimination on the grounds of age by the Respondent (s49ZYD(a),(b) and (d), s52 and s53 of the Act).
3. The complaint was accepted by the President.
4. These points of claim are made in accordance with the orders of the Tribunal.

Chronology/Evidence

5. The Respondent is a corporation and entitled to be sued in its own corporate name and style.

6. Mr Woods was the Respondent's NSW and ACT's Operations Manager.
7. Mr Pezzimenti is the Managing Director of the Respondent.
8. The Applicant was engaged by Slickdogs Productions Pty Ltd.
9. The Applicant is currently 40 years of age.
10. In 2009 Slickdogs Productions Pty Ltd contracted to the Respondent to provide the Applicant's services.
11. In October 2009, the Applicant was assigned as the full-time permanent Channel 9 traffic reporter by the Respondent.
12. The Applicant received positive feedback about his traffic reporting from both the Respondent and Channel 9.
13. On 13 June 2010 the Respondent confirmed to the Applicant that there were no plans to change his role and he was performing well.
14. On or about 20 October 2010 the Applicant was informed by a colleague that Mr Pezzimenti wished to replace him with a "good looking young blonde." This was denied by Mr Woods.
15. During the months of November and December 2010 the Applicant discovered audition material left in the helicopter. The audition tapes contained a series of younger females (numbering around half a dozen) in what looked like they were auditioning for the role of traffic reporting for Channel 9.
16. On or about 19 November 2010, Mr Woods confirmed that the Applicant's role was "safe".
17. On or about 25 November 2010, Mr Woods informed the Applicant that Mr Pezzimenti has been discussing moving the Applicant onto 2UE since he has a much older sound and would be a better fit on 2UE but he would also continue on Channel 9.
18. On 19 January 2010 Mr Woods informed the Applicant that Mr Pezzimenti is really fixed on this idea of moving the Applicant onto 2UE and would remain at Channel 9 but that long term Mr Pezzimenti sees the TV roles for younger people.

19. On 15 February 2011 Mr Woods informed the Applicant that Mr Pezzimenti thinks he is too old for Channel 9 and this role needs someone younger and the Applicant's next move is 2UE because the Applicant sounds older.
20. On 23 February 2011, Mr Woods informed the Applicant that he should not worry about Channel 9 but long term Mr Pezzimenti sees younger people doing the TV work.
21. On 23 February 2011 Mr Flood informs the Applicant that Mr Pezzimenti and Mr Thornton think he looks bad on Channel 9 and he will finish up in 4-6 weeks and be replaced by Amelia Oberhardt.
22. On 17 March 2011 the Applicant was informed by Brian 'Sando' Sanders of messages and emails he had been shown by Mr Woods which showed Mr Pezzimenti stating "what are you doing about getting that fucking fat old cunt off Channel 9?"
23. On 3 March 2011, the Applicant was shown a future roster by Mr Woods. The Applicant was not prepared to accept that roster and resigned since his position was untenable.
24. The Applicant's last day of work was 25 March 2011.
25. At the time of termination Slickdogs Productions Pty Ltd was invoicing the Respondent \$1000.00 per week plus GST and he was being paid \$750.00 per week by Slickdogs Productions Pty Ltd.
26. To date the Applicant has lost \$50,000.
27. The impact of the decision by the Respondent has caused the Applicant a great mental anguish which, as a result, has caused him to seek professional medical support and caused him hurt feelings, public embarrassment and humiliation.

Discrimination

28. The Respondent is liable for the acts of Mr Woods and Mr Pezzimenti (see s52 and 53 of the Act).
29. The Respondent was a principal for the purposes of s49ZYD of the Act
30. The Applicant was a contract worker as defined in s4 of the Act.
31. The Respondent in removing the Applicant from the position of Channel 9 traffic reporter did so on the basis of his age.
32. In the alternative the Respondent in removing the Applicant from the position of Channel 9 traffic reporter did so in part because of his age but by reason of s4A this act is taken to be done because of his age.
33. The decision to remove the Applicant from the position of Channel 9 traffic reporter is in breach of s49ZYD(a), (b) and (d):

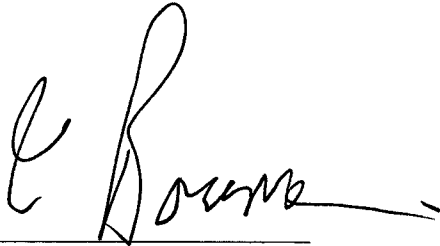
Loss suffered by the Applicant

34. As a result of the conduct of the Respondent, the Applicant has suffered the following:
 - (a) Loss of income already at \$50,000 and continuing at \$1000 per week;
 - (b) Mental anguish;
 - (c) Illness;
 - (d) Hurt feelings;
 - (e) Public embarrassment; and
 - (f) Humiliation.

Remedy sought

35. The Applicant seeks the following remedies:

- (a) The Respondent and its employees and directors undertake training in relation to matters of discrimination with such training being supervised by the Anti-Discrimination Board;
- (b) The Respondent make a public apology to the Applicant;
- (c) The Respondent reinstate the Applicant and pay him his lost remuneration;
- (d) In the alternative to (c), the Respondent compensate the Applicant for his economic loss of \$50,000 and continuing at \$1000 per week;
- (e) The Respondent pay the Applicant \$30,000 for the hurt and humiliation and stress suffered as a result of the Respondent's conduct;
- (f) The Respondent pays the Applicant's costs.



Applicant: Jason Bouman

Dated: 14 March 2012