

Tabled 28/7/06
Ms Rita Mallia, CFMEU
Accepted: Ian West MLC

S106/102
CS156

Omira Majstrovic

1. Mr Omira Majstrovic is 37 years old. He is a formwork labourer. He was employed as a labourer by Formbrace since 1 June 1998. Mr Majstrovic has three children, aged 14, 9 and 7 years of age. His wife was working 2 days a week. She has now been forced to take up more hours due to Mr Majstrovic's dismissal. Mr Majstrovic has been placed in a very difficult situation by his employer and is concerned about how he is going to support his family.
2. In approximately May 2006 he saw on the table in the lunch room on a site a piece of paper advertising a hearing test after smoko. He decided to check his hearing. He was told by the audiologist that his hearing was not good. He suffers from industrial deafness.
3. In approximately May 2006 he visited a doctor in Westmead Hospital who confirmed this diagnosis. He sought legal advice and made a claim for compensation for industrial deafness under the Workers Compensation Act 1987 (NSW).
4. On approximately 1 July 2006, he was advised by a company foreman not to proceed with a claim. Mr Majstrovic refused. He was a few days later approached by the foreman and questioned again why he was making a claim. Mr Majstrovic explained that he could not hear well. Mr Majstrovic was advised that if he did not desist from making a claim he would be sacked.
5. On approximately 6 July, another foreman and a company safety officer who works with the company approached Mr Majstrovic whilst he was working and showed him paperwork regarding his hearing claim. Again he was told that they wanted him to stop his claim, they also gave him a name of another legal practitioner and told him that that from now on, that would be his solicitor. Mr Majstrovic refused.
6. On approximately 15 July 2006 the foreman, approached him on the working site and said words to the effect: "*Omira, stop your industrial deafness claim.*" He refused. He was harassed like this for one week.
7. On 22 July 2006 at 12:45pm whilst working the foreman approached him and told him the company owner wanted to talk to him. The company owner advised that if he did not stop his industrial deafness claim he should not come back on Monday. He picked up his tools and went home. He has not been reinstated.
8. Some 11 other workers were also sacked for the same reason. The Union is taking up the claims, the company appears to have less than 100 employees, therefore, there may be no unfair dismissal rights. Access to the NSW Industrial Relations Commission may also be problematic because of the possible effect of WorkChoices in rendering state industrial legislation void in relation to constitutional corporations.