

# UNPAID TRIAL WORK

## THE MOST IMPORTANT THING YOU SHOULD KNOW ABOUT UNPAID TRIAL WORK:- IT RARELY LEADS TO PAID WORK!!!!

***A Job Watch survey showed that in only 13% of cases was a paid position offered after the completion of an unpaid trial***

### ***What is unpaid trial work?***

Unpaid trial work is when an employer asks a job applicant to work for a period as a "trial" and does not pay wages for the trial period.

Voluntary work is not unpaid trial work. When someone volunteers their services they do so for reasons which can include gaining experience in an area they want to work in or working for a community or charitable organisation.

You should be wary about agreeing to work an unpaid trial for a business operating for profit.

The main reasons job seekers are willing to undertake unpaid trial work are:

- they assume that they will be paid for any work carried out;



#### **Job Watch Inc is .....**

an independent, not for profit, employment rights legal centre. It provides a free, confidential telephone information and referral service and other assistance to Victorian workers.

**Hours:- Monday – Friday 9am-5pm**  
(Closed Tuesday 12.00noon – 2.00pm)

**Phone: (03) 9662 1933 or**  
**1800 331 617**

**Website: [www.jobwatch.org.au](http://www.jobwatch.org.au)**

- the employer has had led them to believe that they have already been offered the job;
- they believe that an employer is legally entitled to get applicants to work for a trial period without pay;
- they are desperate to do anything which could lead to a job, even if the chance of getting paid work is small.

Employers usually say that the practice of unpaid trial work is increasing. We know of unscrupulous employers who continually employ people on an unpaid trial basis because it is cheaper to keep advertising a job than to pay wages.

Job Watch callers who have complained about unpaid trial work had heard about their jobs in newspapers, at an employment agency, by "word of mouth" and from notices in shop windows.

### ***Typical situation***

Rae sees an ad at her job centre for a kitchen hand in a pizza bar. She applies for the job, the boss asks her to come in and see him. Then he says he would like her to do a week's 'trial' in the job and if she is good, the job will be hers. Rae completes the week's trial, does not get the job and does not get paid.

### ***Everybody is entitled to be paid for trial work***

Trial work can be for a few hours, a few days, a few weeks and sometimes even a few months. It can be in a shop, an office, a pub or restaurant, a health centre, a factory, a solicitor's office. You can be asked to wait on tables, dig a garden, work a machine in a factory, clean a building, wash dishes, type, answer phones.

Unfortunately unpaid trial work happens in most industries and occupations. Sometimes the employer will be up front about the fact that there will be no wages, but most often nothing is said about the wages at all. Then, when the job seeker asks about the wages, he or she is told that the trial period was unpaid work.

## *Your rights*

### **Everybody is entitled to proper working conditions while on trial.**

Depending on the work done and the terms and conditions the work was commenced under, there are a range of legal requirements an employer must comply with.

Proper conditions include the right to:

- a healthy and safe workplace;
- minimum terms and conditions of employment (see below);
- be paid the legal rate of pay;
- receive regular pay slips and to have tax deducted from your wages;
- have superannuation contributions made on your behalf (if you are eligible);
- join a union;
- Workcover insurance in the event of a work related illness or injury, and
- a workplace free of discrimination.

## *Employer obligations*

An employer using the practice of unpaid trial work may be engaging in the following unlawful conduct:

- failure to provide minimum terms and conditions of employment, such as failure to pay minimum wages or allow meal breaks;
- failure to record employee information;
- misleading conduct;
- failure to comply with requirements relating to Workcover, payroll tax, group tax etc.; and
- breach of contract.

There are various forms of protection for workers that are set down in law.

## *Minimum terms and conditions of employment*

You cannot receive employment conditions that are less than the legal minimum standards. The legal minimum standards are set out in the Australian Fair Pay and Conditions Standard and Federal awards and agreements. A contract containing terms and conditions that are lower than the minimum standards is unenforceable in relation to those terms and conditions and the Fair Work Ombudsman or your union may be able to recover money owed to you.

## *Australian Fair Pay and Conditions Standard*

The Australian Fair Pay and Conditions Standard sets out minimum conditions of employment for all Victorian employees **except** those employees who are covered by an Australian Workplace Agreement (AWA) or certified agreement that was entered into before 27 March 2006.

The Standard provides for:

- basic hourly rates of pay (these depend on your classification. The lowest adult classification is currently \$14.31 per hour);
- a maximum of 38 ordinary hours of work per week plus reasonable additional hours;
- four weeks' annual leave for permanent full time employees;
- ten days' paid personal leave (including sick and carer's leave) for permanent full time employees) plus two days' *unpaid* carer's leave per occasion required for all employees, including casuals;
- two days' paid compassionate leave per occasion required for permanent employees;
- 52 weeks' unpaid parental (maternity, paternity or adoption) leave.

## *Federal Awards*

Many Victorian employees are also covered by Federal awards or collective (or certified) agreements. These provide minimum conditions **additional** to those set out in the Australian Fair Pay and Conditions Standard and may provide for youth wages.

To find out whether your employment is covered by an award or agreement, and what conditions you are entitled to, contact the Fair Work Infoline.

## ***Where to get help***

### **Job Watch Inc:**

(03) 9662 1933 (metro);  
1800 331 617 (rural)

### **Fair Work Infoline**

(Office of the Fair Work Ombudsman)  
13 13 94

### **Fair Work Australia Helpline**

1300 799 675

### **Victorian Equal Opportunity and Human Rights Commission:**

(03) 9281 7111  
1800 134 142

### **ACTU Worker Information line**

(for referral to a union): 1300 362 223

### **Law Institute of Victoria**

(for referral to a lawyer): (03) 9607 9550

#### **Important disclaimer**

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