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Hockey wants solution for remaining Tristar workers, after payout secured for dying employee; Employers warned on discrimination following 60% increase in post-Work Choices workplace complaints to HREOC; Court to hear OWS agreement prosecution on Monday; and NAB ruling limits extent of employer responsibility for OHS, work and family balance.

Hockey wants solution for remaining Tristar workers, after payout secured for dying employee

New Workplace Relations Minister Joe Hockey is pushing Tristar management to resolve the future of its remaining workers, after the company yesterday agreed to make a \$50,000 redundancy payment to dying employee John Beaven.

The company yesterday afternoon agreed to the payment after Hockey had visited its Marrickville (NSW) factory, where 30 employees are turning up for work every day, but with little or no work to perform. The company acceded to the payout just before Hockey's planned 3.30pm media conference.

The new minister had attended the site after PM John Howard promised Sydney radio announcer Alan Jones that Hockey would visit and try to broker a solution.

Unions and Opposition Leader Kevin Rudd credited to the 2GB personality with the breakthrough. "We raised this in Parliament in August last year and November last year. So, when you put the acid on the Government, something happened. But we're concerned about everybody else," said Rudd.

Jones has now also taken up the lot of the remaining workers (see the [transcript](#) of his editorial this morning).

Meanwhile, the OWS is investigating the company, to ensure that workers are receiving their entitlements.

And in another Tristar development, the AIRC this week agreed to terminate the agreement covering the workers. While on the face of it this won't affect their redundancy entitlements, as they will be preserved for 12 months under last year's amendments to Work Choices, unions are concerned that it raises some doubts about their entitlements.

Given that the workers will revert to their award entitlements once the agreement is terminated (Senior Deputy President will hear the parties on Tuesday, November 30 on the orders she will make to give effect to her [decision](#) to terminate the deal), questions remain, including whether the redundancy formula will apply to the agreement or award rates of pay.

Employers warned on discrimination after 60% increase in workplace complaints to HREOC post-Work Choices

Employers are being reminded of federal and state anti-discrimination laws after a 60% increase in workplace complaints to HREOC since Work Choices became law.

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Human Rights and Equal Opportunity Commission President John von Doussa, QC, said in a statement yesterday that employers must "strive for workplaces free of discrimination and harassment in the post Work Choices industrial landscape".

Work-related complaints to HREOC have increased from about 70 to 110 a month since Work Choices commenced last March, according to preliminary and unpublished data from the Commission.

Changes to unfair dismissal laws seem to have had a particular impact. In the first three months after Work Choices banned unfair dismissal claims for smaller employers (April-June 2006), HREOC received 126 complaints regarding dismissals, compared to 26 in the same period in 2005.

HREOC referred employers to their website guides at [HREOC info for employers](#) and for employees at [HREOC info for employees](#).

Court to hear OWS agreement prosecution on Monday

The Federal Magistrates Court will on Monday hear the first OWS prosecution of an employer for breaching Work Choices' agreement-making rules.

The Office claims that administrative employees at AC & MS Services Pty Ltd voted up a variation to a non-union collective agreement that was to cover employees who would be engaged as cleaners.

The OWS said in a statement last year that the employees who voted on the agreement and variations "were administrative staff whose employment was never intended to be subject to the agreement".

NAB ruling limits employer obligations on OHS, work and family balance

A new AIRC ruling appears to draw limits on the extent of employer obligations to provide for workers' safety and work/family balance.

In a private arbitration under s170LW of the pre-reform Workplace Relations Act, the Finance Sector Union sought to retain entitlements to having taxis provided for journeys home when employees finished work after 8pm, after the bank announced it was withdrawing the provisions.

The union argued the entitlements were justified for OHS and work/family reasons, relying on general statements of intent at clauses 22 and 43 of the 2006-09 NAB-FSU agreement.

But Commissioner Greg Smith denied the union's bid, saying there was "no compelling occupational health and safety reason which should be the responsibility of the employer when travelling from work to home". He cited nine reasons for his finding, including that the work was performed in ordinary hours, and that the system of work (particularly start and finish times) didn't give rise to any particular risks for which the employer should be responsible.

While he, as a citizen and parent, shared the general OHS concerns of employees, "these are societal problems and not problems to be visited upon the employer".

Commissioner Smith also found that work and family balance commitments from the company didn't require it to provide taxis home from the three sites in question (Knox and King St in Melbourne, and Rhodes in Sydney).

Commissioner Smith said he had taken into account in coming to that conclusion that NAB had offered to move workers to earlier shifts and had committed to giving individual workers the opportunity to argue that exceptional circumstances justified the provision of taxis.

Commissioner Smith recommended that NAB proceed with the new travel policy from February 5, after it suspended its operation pending the Commission's decision.


[Finance Sector Union of Australia v National Australia Bank Limited \[2007\] AIRC 58 \(24 January 2007\)](#)

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