

Diana Asmar,

Jeff Jackson,
Secretary,
Health Services Union,
Victorian Branch,
106-108 Victoria Street,
CARLTON SOUTH 3053

Without Prejudice

Dear Jeff,

In response to your letters of 14th, 15th and 16th May 2007, I need to immediately put on record:

- (i) that the redundancy proposal contained therein was not something which I sought but was urged on me by you and Pauline Fegan when we meet on 2nd May 2007 and reiterated in subsequent discussions;
- (ii) that I have not resigned but was dismissed by you today.

Let me remind you of what has transpired. You asked me to attend a meeting with you and Pauline on 2nd May. You commenced the meeting by saying that it was not disciplinary, grievance or about my performance.

After discussing the meeting at Monash you raised the issue of my redundancy. You said you were concerned about my MS; that in the last 2 years I had not been the same person as 4 years ago and because you cared for me you wanted to offer me a redundancy. You explained that the union was looking at restructuring, that it was cashed up after selling its building and that you could afford to give me redundancy.

You said that being an organiser was very stressful and you did not want to see me in a wheelchair or coffin. You suggested I could do contract work for the Union or find government work. You also said you would assist me to obtain fortnightly payments from superannuation.

During the course of the meeting you confirmed that there was nothing wrong with my performance and acknowledged that I had been very good at recruitment. Indeed on the figures, for many years I have been, and continue to be, the Union's top recruiter.

I told you then, as is the truth, that I love my job, love fighting for members and being a organiser and that I did not find my job stressful. What I do find stressful is being undermined by you in my job on the false claim that my work will affect my health.

At the meeting I explained that MS did not affect my performance; that since diagnosed I had become an organiser with the Union, had become Mayor of Darebin and continue to

be a very active councillor and I had raised \$75,000 for MS Society research. I asked you to check my sick leave records which as you now know shows that I have 63 days of unused sick leave.

You and Pauline explained that I could claim on superannuation by getting my doctor to say I was unable to work even though you know this to be untrue. You also offered to write a letter in support of such a superannuation claim. My doctor is appalled at the suggestion that I am in any way incapable of performing my job or that it may have an adverse impact on my health. You said that your wife is on the Board of HESTA and could help.

You said you could assist me to obtain contract work with the Union and that I could obtain a government job if I took the redundancy. You spoke about your diabetes and how it impacted on your work. You asked me to consider the proposal but not straight away. I said I did not need time to consider it and rejected it out of hand. You again urged that I reconsider and speak to David.

You reiterated that the job was stressful and that you did not wish to see me in a wheelchair. I again told you I did not find it stressful and the MS was not affecting my work performance. I was working overtime, weekends and performing council duties and fundraising for MS.

You told me to take a week off work to consider the offer. You directed that I take the week off on full pay. You called it stress leave. I reiterated that I was not stressed.

On 4 May you met with David. You again said that being an organiser was very stressful and would impact on my health and that the MS was affecting my performance. You told David that because you loved me you were offering me a redundancy. You told him that you had dozens of complaints about my performance. You agreed that you had nothing in writing and the only complaints discussed with me concerned a time when I was on holidays. You have been unable to articulate any legitimate shortcomings in my work as an organiser.

You met with David and I last Friday, 11 May. You repeated your concern that the work of an organiser was stressful and no good for my MS. I repeated my earlier response that I did not find the job stressful, I was the most successful organiser with the best recruitment figures and I was very popular with the members. You were unable to provide any evidence of any shortcomings in my work performance.

While you offered me redundancy as early as 2 May it was not until 14 May that you quantified the offer. On 15 May you wrote "we have offered you to stay at home for the last two days at our expense however if you are not intending to take this package we will expect you to return to work at 8.30am tomorrow in your role in the Members Services Team".

Today you wrote that I had left a message for you that I would not return to work unless I could dictate my role within the organisation. I certainly did not say that but did

indicate that I would not be returning to work in the Members Services Team. I did not offer my resignation nor was there anything in my conduct which could be so construed.

You unlawfully sought to remove me from my job as an organiser on the basis of my health. That was in clear breach of Workplace Relations Act and the Equal Opportunities Act (Vic). As of today you are also in breach of s659 Workplace Relations Act. You have unlawfully terminated my employment because of my "physical or mental disability".

I have sought legal advice, been to the Equal Opportunities Commission and been advised of my rights to invoke the grievance procedure to the Union's ombudsman. However in a last attempt to avoid protracted legal proceedings and without prejudice to my rights at law, I am prepared to resign, compromise all claims I may have against you arising from my employment with the Union by accepting your redundancy offer attached to your letter of 14 May in the sum of \$66,817.49 plus \$35,000 to resolve my entitlements arising from the Union's unlawful conduct.

Kindly let me have your response in writing by noon Friday, 18 May 2007.

Yours truly,

A handwritten signature in dark ink, appearing to be 'D. F.', written in a cursive style.