Fixed-term teacher wins leave entitlements back

A fixed-term teacher has won back her accrued entitlements after successful SSTUWA intervention.

The teacher had resigned from her permanent position in the city while on leave without pay in November 2014.

Despite the requirement in the Award to only give four weeks' notice of resignation the Department of Education processed the resignation on the last day of the student summer vacation period in 2015 (28 January).

During 2014 the member also accepted a fixed term position in the country that ended on the last day of the student summer vacation period in 2015 (also 28 January).

Legally, if the services of fixed term teachers, are not required, teachers can lose continuity after six months

This is not the case for permanent employees who have four weeks. Continuous service is important for the purposes of accrual of entitlements, such as sick leave and long service leave.

The teacher took up another fixed-term contract in March 2015 and was told that she had broken her service when she resigned her permanent position, as she only had four weeks to secure further employment to maintain her entitlements.

The SSTUWA advised the employer in writing on 18 August 2015 that it appeared the member had allegedly lost her accrued entitlements:

"…….as a result of your system's failure to adequately record the status of employees in her situation and accommodate them accordingly in order to protect their actual entitlements in these types of situations. This (lack of) accommodation in your payroll processing systems is not sufficient for you to adequately discharge your responsibilities to your employees under our industrial instruments."

As a result of the SSTUWA intervention the employer made a commitment to restore the employee's accrued sick and pro-rata long service leave entitlements to 28 January 2015.

Members who encounter any workplace issues should speak to their union representative at the school or contact SSTUWA Member Assist on 9210 6060 or 1800 106 683, or email membership@sstuwa.org.au

Authorised by Sally Dennis, General Secretary, The State School Teachers' Union of W.A.
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