SSTUWA helps teacher member win case



The successful challenge of a country primary school teacher against their job dismissal has highlighted the vital importance of being an SSTUWA member.

The SSTUWA member was dismissed in May 2015 from her teaching position for alleged misconduct during the administration of NAPLAN testing with her then-Year 3 class in 2014.

But the WA Industrial Relations Commission (WAIRC) has found in the member's favour due to insufficient and questionable evidence, as well as flaws with the original investigation by the Department of Education.

The WAIRC was "inclined to think that the appropriate remedy" was for the member to be: "reinstated to her former position on conditions at least as favourable as the conditions on which she was employed immediately before the dismissal, that her employment be deemed to be continuous, and that the respondent pay to her the remuneration lost because of the dismissal."

The WAIRC's decision is still subject to appeal, but the original decision is a huge win for the member and has been welcomed by SSTUWA President Pat Byrne.

Legal costs for this level of legal representation would be almost $75,000, total costs that an individual would normally have to bear themselves.

"This member was supported by the SSTUWA; quite simply she would have been unable to take this matter on without the financial resources of the union," Ms Byrne said.

"This would have meant that the department processes would have gone unchallenged."

Ms Byrne said the WAIRC decision was highly critical of the process employed by the Standards and Integrity branch of the department, finding that its report was so flawed as to be unable to be relied upon.

"For example, the Commissioner noted that investigators seemed to be unaware of, or did not take into account, the NAPLAN test at issue having a practice section in which some of the behaviours complained of were permissible," she said.

"They also failed to distinguish between a number of tests (five in all, including a resitting of the Language Conventions test)

which were conducted over three days.

“This was particularly relevant in the reliance placed on the evidence of eight year old students interviewed some five weeks after the test.

“Further, the main witness evidence relied upon by the department was found to be unreliable and biased.”

Ms Byrne said the SSTUWA will raise the procedural issues identified by the WAIRC with the department to ensure that these issues are not repeated.

“In addition, this case underlines the necessity for teachers, EAs, and any adult who might be present during the administration of NAPLAN testing, to be fully aware of the written protocols and what they actually mean in practice,” she added.

“This is particularly important given the fact that the department is prepared to dismiss employees for breaches of the protocols.”

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