

Low Pay Commission submission from Unite the Union Tips in the Hospitality Sector.

The trade union Unite believes that legislation is vital to protect workers from wage theft particularly in the hospitality sector. What is needed is robust legislation that will prevent an employer from withholding any part of an employee's wages, including monetary gifts received as tips or gratuities. Unite believes that legislation needs to give a legal right to those tips to the workers and should provide for a criminal sanction for those employers who withhold tips for any reason including using them to make up the contracted wages.

Tips are regularly confiscated in the hospitality sector for a number of reasons including, to make up for breakages, or a slow night, poor takings, or till shortages. Gratuities paid by customers to service staff are not intended for management or for the profits of restaurant owners. To use tips in such a manner is disingenuous and dishonest to the customer. The contention, by those in the industry, that the service charge is a contract between the business and the customer is disingenuous, misleading and has no legal standing.

Unite feels that the research conducted by Low Pay commission in regards to the issue of tip theft was inadequate. We recommend that the commission conduct research including interviews and surveys to inform ourselves of the situation in the hospitality sector. This research needs to reflect the lived experience of those working in the sector.

A survey, conducted by Dr Deirdre Curran of NUI Galway, showed that 23% of respondents working in the hospitality sector said that tips were kept in whole or in part by management. 47% of respondents said there was some system in place for distributing tips, but it was unclear or not considered to be fair. When asked what tips were used for, the

responses included; to cover the cost of the staff party, which sometimes did not even happen; to cover the payment of a Christmas bonus (the relationship between the tips and the monetary value of the bonus was not clear); to top up the till; to pay for newspapers; to pay for walkouts and to pay for breakages.

We believe that the vast majority of people working in this sector are among the most vulnerable in society. Including a large number of foreign nationals, women and students. Unite wants to see the introduction of better rates of pay in the sector. However, the insecurity and part-time hours that are common mean that many workers inevitably rely on tips in order to make ends meet. Because of fear, they do not have collective representation even though they have the right to it. In the absence of collective organisation, a national agreement, or an employment regulation order, ERO, arrived at through a JLC, these workers need to be protected to the greatest extent possible through legislation and regulation.

United have supported the introduction of legislation in the form of the National Minimum Wage (Protection of Employee Tips) Bill 2017, and would like to see a similar bill be introduced in the 33rd Dáil term.

At the Joint Oireachtas Committee on the 10 October 2019, Dr. de Buitléir indicated that he would approach the other members of the commission in regard to the need for comprehensive research on the issue of tips and service charges. Unite would recommend that adequate research be conducted with a view to supporting the drafting of similar legislation to the National Minimum Wage (Protection of Employee Tips) Bill 2017.

Unite have been involved in trying to organise workers in this sector over last twelve months. Our organisers have had regular discussions with a wide range of workers in the sector and throughout the country. We have established a tourism and hospitality branch and we can and are happy to provide assistance to the commission in this area.

Yours Sincerely,
Brendan Ogle
Regional Officer
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