

**EMPLOYMENT LAW**  
**SESSION 2 ACTIVITIES**  
**EMPLOYEES, CONTRACTORS AND**  
**SHAM CONTRACTING**

**ACTIVITY A: SHAM CONTRACTING**

**Watch the video and answer the questions.**

- 1 Who owns the painting business: Tendai or Tim? How do you know this?
- 2 Where does Tendai put the painting tools?
- 3 How much money does Tim want to pay Tendai as a contractor?
- 4 Who decides the hours that Tendai will work? How do you know this?
- 5 What does Tim say when Tendai tells him he can't live on the hourly rate?
- 6 What is an Australian Business Number (**ABN**)?
- 7 What is a tax file number (**TFN**)?
- 8 If Tendai refuses to be made a contractor and Tim fires him, what can Tendai do?
- 9 What organisation does Tendai look up on his phone at the end of the video?

## ACTIVITY B

Employees and contractors have different legal rights and responsibilities, but it is sometimes difficult to tell the difference between them. The table below shows some things that can help a lawyer tell if a worker is an employee or a contractor.

Put a tick next to the things that apply to Tendai.  
(for some squares, neither will apply – leave these blank).

EMPLOYEE	CONTRACTOR
<ul style="list-style-type: none"> <li>• Uses company tools and equipment</li> </ul>	<ul style="list-style-type: none"> <li>• Use own tools and equipment</li> </ul>
<ul style="list-style-type: none"> <li>• Gets a payslip</li> </ul>	<ul style="list-style-type: none"> <li>• Does not get payslips, uses an invoice</li> </ul>
<ul style="list-style-type: none"> <li>• Does not decide which hours to work (for example, the boss decides the hours in a roster)</li> </ul>	<ul style="list-style-type: none"> <li>• Decides which hours to work themselves</li> <li>• No roster</li> </ul>
<ul style="list-style-type: none"> <li>• Boss pays superannuation</li> </ul>	<ul style="list-style-type: none"> <li>• Must organise own superannuation</li> </ul>
<ul style="list-style-type: none"> <li>• Boss organises tax to be taken out of pay</li> </ul>	<ul style="list-style-type: none"> <li>• Must organise and pay their own tax</li> </ul>
<ul style="list-style-type: none"> <li>• No ABN</li> </ul>	<ul style="list-style-type: none"> <li>• Has an ABN</li> </ul>
<ul style="list-style-type: none"> <li>• Wears a company uniform</li> </ul>	<ul style="list-style-type: none"> <li>• No company uniform</li> </ul>
<ul style="list-style-type: none"> <li>• Has business card with boss company name</li> </ul>	<ul style="list-style-type: none"> <li>• Has business card with his own company name</li> </ul>
<ul style="list-style-type: none"> <li>• Boss has control over the work that the employee does (for example, decides work hours, supervises the work)</li> </ul>	<ul style="list-style-type: none"> <li>• Has control over their own work.</li> </ul>
<ul style="list-style-type: none"> <li>• Works for boss' company</li> </ul>	<ul style="list-style-type: none"> <li>• Is the boss of their own company</li> </ul>
<ul style="list-style-type: none"> <li>• Works for one boss only</li> </ul>	<ul style="list-style-type: none"> <li>• Has many different jobs for different bosses</li> </ul>
<ul style="list-style-type: none"> <li>• Cannot get another worker to do their job for them</li> </ul>	<ul style="list-style-type: none"> <li>• Can get another worker to do their job for them</li> </ul>

Do you think Tendai is an employee or a contractor? Why?

### ACTIVITY C

What's the important information? Complete these sentences. Use a word or words from below (note: you will use some words more than once).

employees contractors fake employee contractor false

1. Sham contracting means \_\_\_\_\_ contracting.
2. Sham contracting happens when a boss says you are a \_\_\_\_\_ but under law you are really an \_\_\_\_\_.
3. \_\_\_\_\_ usually work under supervision and do not decide which hours to work.
4. \_\_\_\_\_ are the boss of their own business.
5. If you have an ABN you must be a contractor. True or false? \_\_\_\_\_
6. If you wear a uniform, this suggests you are an \_\_\_\_\_.
7. If you receive a payslip, it is more likely that you are an \_\_\_\_\_.

### ACTIVITY D

Discussion: Why do you think that a boss would say that a worker is a contractor, when really they should be an employee?

### ACTIVITY E

Discussion: Do you know many workers who have an ABN? Do you think they are real contractors? Why/why not?

### ACTIVITY F

Watch the video again. Watch for the screen that tells you where to get help. Where are some places that you can get free legal help?