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Migrant worker alleges 'kidnapping' off local farm after abuse complaints

Doug Schmidt • Windsor Star

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"I couldn't do anything, and I was very afraid." Miguel, a migrant farm worker from Guatemala, stands outside the UFCW union's Agricultural Workers Support Centre in Leamington on Aug. 6, 2020, where he spoke about allegations of bullying and other abuse by supervisors at his former workplace. NICK BRANCACCIO / Windsor Star



"Very scared, angry, and humiliated." A migrant worker from Guatemala is shown next to a mural outside the UFCW union's Agricultural Workers Support Centre in Leamington where he told his story on Thursday of alleged workplace mistreatment at a local farm. NICK BRANCACCIO/Windsor Star

Details of Miguel's ordeal are contained in an application to Immigration, Refugees and Citizenship Canada for an open work permit under a federal "vulnerable worker program" launched in June 2019. A copy of that report was obtained by the Star, with further details revealed in interviews this week with Miguel and others involved in the case.

At the airport, Miguel called his pastor, who then contacted Biron. He was put on speaker phone at the Avianca Airlines counter at Pearson International. Miguel told the Avianca attendant he was being "kidnapped" and Biron asked her to alert airport police.

Miguel, in a subsequent report, said his escort overheard that and "ran from the place. I was alone."

STORY CONTINUES BELOW

The next day, the farm's general manager — one of his alleged tormentors — confronted Miguel at work, hurling insults and railing against him for going directly to the owner and "that lawyer."

According to a statement Miguel later made to federal authorities, he was then threatened with the police and told to sign documents described to him as "warning letters." Miguel refused (the papers were in English, which he doesn't understand), and he contacted the farm's owner again.

STORY CONTINUES BELOW

He was assured that the general manager would be spoken to again.

A few days later, mid-morning on June 19, 2019, Miguel was told by a supervisor to stop working and instead follow him for a job outside the greenhouse. He was told to bring his lunch.

Before they drove off, the general manager arrived, hopped into the car as well and told the worker: "OK, get your luggage right now because you are leaving to Guatemala."

Miguel said he was escorted to his sleeping quarters, told there was no time to shower and advised to pack his suitcase. Asked why the rush, Miguel said he was told his flight was departing Toronto in little more than three hours. He said the farm owner's brother drove him in his car and refused to stop along the way.

"At that moment, I felt kidnapped because I couldn't do anything and I was very afraid."



Payday is always a busy day for banks and money transfer businesses in farm towns. Here on Thursday at the end of the workday, a patient line of mostly migrant agricultural workers forms outside the Royal Bank in downtown Leamington. NICK BRANCACCIO/Windsor Star

On April 21, a case officer with Immigration, Refugees and Citizenship Canada in Windsor wrote Miguel that his application had been approved and he was being issued an open work permit.

The open work permit for a vulnerable person is a temporary solution, it has an expiry date and cannot be renewed. The recipient must find a new employer and apply for a new work permit if they want to stay in Canada.

It's "a band-aid solution," but all migrant workers coming to Canada should have open work permits, said Santiago Escobar, a UFCW national representative who helped the Spanish-speaking Miguel with the paperwork, all in English.

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The Leamington pastor advised Miguel to take a taxi back to Leamington and offered to cover the fare.

For the next eight months, thanks to that pastor, “I have had a roof to live and food.” He worked for the church in return for living expenses and small amounts sent regularly to his family in Guatemala. The church job ended earlier this year when COVID-19 struck and Ontario’s places of worship were closed under emergency health orders.

Miguel heard the United Food and Commercial Workers was helping migrant workers and he contacted the union which assisted him in applying to the federal government’s vulnerable worker program.

The program is designed to help migrant workers fleeing abuse at the workplace. Successful applicants are given open work permits so they can choose who to work for, subject to the job being one that can’t be readily filled by a Canadian.



Paralegal Cristian Biron, shown in Leamington on Thursday, is representing a migrant labourer from Guatemala in a wrongful dismissal lawsuit the worker filed against his former farm employer. NICK BRANCACCIO/Windsor Star

Biron is now representing Miguel in a civil suit seeking \$31,000 in damages for wrongful dismissal. He said his client is a hard worker who has been returning to Canada since 2008 and who was actually recruited to work at that particular farm.

Miguel alleges bullying, threats and discrimination that, according to his open work permit application, left him "very scared, angry, and humiliated."

The Star agreed not to identify "Miguel" by his real name in order to report details of his case and protect him from any employer reprisals. A Mexican migrant worker was recently fired after joining the Migrant Workers Alliance for Change advocacy group in speaking out publicly on poor living conditions and mistreatment at an Ontario farm that suffered a large COVID-19 outbreak.

"If his name is published, it can be an issue if he wants to find a new employer," said Escobar.

STORY CONTINUES BELOW

Miguel is just one of over 60 successful open work permit applications the UFCW has assisted with among migrant farm workers so far over the past year, including about 50 individuals employed at over a dozen farms in Essex County, said Escobar.

He said the union has sought to find out — unsuccessfully so far — whether any government authorities at the provincial or federal levels have used the detailed allegations brought against employers to investigate those workplaces in order to protect others.

“After the federal government receives this information, what are they doing with this information?”

The Star asked those same questions of Immigration, Refugees and Citizenship Canada (IRCC), which investigates and determines eligibility under the vulnerable foreign workers program, the Ministry of Employment, Workforce Development and Disability Inclusion, which manages the temporary foreign workers program, and Employment and Social Development Canada, the lead department for inspecting the activities of employers of temporary foreign workers.

Once a worker has been issued an open work permit and has moved on to a new employer, an IRCC spokeswoman told the Star, the former employer “will face a compliance inspection, which can lead to a monetary penalty, a ban on hiring foreign workers and, when warranted, further criminal investigation.”

The agri-food sector itself concedes there are “bad apples” in the industry, but a Service Canada webpage, Employers Who Have Been Found Non-Compliant — which hasn’t been updated since last February — lists only one local farm that has been punished over the past four years.

STORY CONTINUES BELOW

That Leamington employer was fined \$1,000 in 2019, but permitted to continue hiring from abroad.

Escobar said about 20 of the successful open work permit applications assisted by the UFCW — farm workers in Ontario are forbidden from joining a union — were for migrant workers at a single Kingsville farm. Allegations in those applications included complaints of abusive bosses, crowded or rundown accommodations and unsafe working conditions. None of those claims have been spoken to in public proceedings.

Employment, Workforce Development and Disability Inclusion Minister Carla Qualtrough, a former human rights lawyer, told the Star this week that COVID-19 has shone a spotlight on a decades-old program in need of “overhaul.”

In the short-term, she said, Ottawa is investing millions of additional tax dollars into boosting the number of farm inspections from about 1,500 to 6,000 annually.

“We continue to strengthen inspections and are committed to looking at additional steps we can take in order to better protect workers’ health and safety,” IRCC spokesperson Nancy Caron said Friday in an email. “The safety of foreign workers is a key priority for our government.”

“Employers would think twice before abusing workers — they wouldn’t have the power and control they currently have,” he said.

Tens of thousands of foreign workers come to Canada annually under temporary farm worker programs and are contracted to specific agri-food businesses. Sometimes, said Biron, things don’t work out and employers are within their rights to send workers back to their home countries.

In Miguel’s case, kidnapping is “a very strong word,” said Biron, but “that’s the way he felt.”

He was put in a vehicle and driven to the airport “without his knowledge and against his will — they were essentially trying to deport him.”



More protections needed. UFCW national representative Santiago Escobar is shown Thursday outside his union's Agricultural Workers Support Centre in Leamington. The centre runs a small food bank for migrant workers and has been distributing donated personal protective equipment, like face masks, to temporary foreign workers employed in the local agri-food sector. NICK BRANCACCIO/Windsor Star

Not satisfied with actions taken so far by provincial and federal authorities, “we are talking with lawyers — some of the workers we assisted could be taking further action against their (former) employers,” said the UFCW’s Escobar.

The granting of open work permits is based on claims and allegations made on the part of the workers in their applications.

STORY CONTINUES BELOW

Just as there are sure to be bad bosses on some farms — as well as in any other sector of the economy — “there are bad workers out there, too,” said Joe Sbrocchi, general manager of the Ontario Greenhouse Vegetable Growers (OGVG).

“Do we do the best to protect our workers? Of course we do,” said Sbrocchi, who describes migrant workers — including almost 8,000 registered in temporary foreign worker programs just on Essex County farms — as a vital part of the Canadian agri-food sector.

“There is forever, and will be forever, a worker/employer dynamic,” he said. “When there are excesses, they should be addressed, I agree.”

One possible answer, Sbrocchi suggests, is “some kind of ombudsman” position that can deal with worker complaints and act as an intermediary with employers.

Sbrocchi said members of his association, which represents most of Ontario’s greenhouse growers, including 117 agri-businesses in Essex County — home to perhaps the largest concentration of agri-food greenhouse operations in North America — are all in favour of improving the system where possible.



"Farmers take care of their workers." Ontario Greenhouse Vegetable Growers general manager Joe Sbrocchi at his Leamington office, Jan. 14, 2020. NICK BRANCACCIO/Windsor Star

The farm east of Leamington that employed Miguel, said Escobar, also hired undocumented workers who were roommates with Rogelio Munoz Santos, 24, one of three migrant workers in Ontario who have died of COVID-19.

Qualtrough said this week having "thousands" of undocumented foreign workers on Canadian farms was "extremely concerning" during a pandemic when government officials are urging those workers to cooperate with health authorities in the fight against the COVID-19 pandemic.

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“It’s really tough to get to those workers — we haven’t cracked that nut yet,” Qualtrough said.

The Star has been told by multiple sources that such workers, many of whom arrive on visitor’s visas but with the intention to fill jobs, are in huge demand in the Canadian agri-food sector.

“It’s very easy to find a job here,” Miguel, 40, said in an interview in Leamington on Thursday after he pulled a 10-hour shift at his new farm.

His first workplace this spring was a big improvement over the business he is now suing, but he left there after a short time when a large COVID-19 outbreak forced a temporary shutdown.

With an open work permit, said Escobar, “he’s able to do like any Canadian — if you don’t like working here, you can work somewhere else.”

If open work permits for all migrant employees has government officials or the farmers worried they might lose too many workers, then perhaps sectoral open work permits — in which, for example, a farm worker can only move to another farm — might be more politically palatable, said Escobar. The temporary foreign worker programs are meant to fill jobs that Canadian workers shy away from.

Through a Spanish translator, Miguel said he’s “very happy with my current job — there’s no racism, no insults, the treatment is decent.”

Like most foreign labourers on local farms, Miguel earns about Ontario’s minimum wage, but he said his income is sufficient to support his wife, six children and a grandson in Guatemala.

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“I wouldn’t say they are living well, but at least they have food on the table, I’m supporting their basic needs,” he said. “Back home, there are no opportunities — the economic situation is very bad.”

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The OGVG’s Sbrocchi said Canada has one of the most technologically advanced and most trusted agri-food sectors in the world and the public needs to better understand the importance of a domestic food supply and food security.

“There are exceptions to the rule, but that’s the rule — farmers take care of their workers,” he said. “If we can make this better, let’s make it better.”

To help Canadians better understand how farms operate, and help explain what’s going on at the farm, the OGVG begins a weekly [Virtual Town Hall series](#) next Thursday at 2 p.m. The community is invited to pose questions in advance on anything from migrant worker housing to how growers are coping with COVID-19 and have them answered by insider experts.

— *This is the latest in The Windsor Star’s Growing Concern series.*

Editor’s note: This story has been revised to correct the fact that an open work permit granted a vulnerable person is not renewable.

dschmidt@postmedia.com

twitter.com/schmidtcity



Strong hands of a hard-working migrant farm worker in Leamington are shown Thursday. NICK BRANCACCIO/Windsor Star



Temporary foreign farm workers line up on Thursday payday outside a money transfer business in downtown Leamington. Many of the thousands of migrant workers on farms in Essex County support families in their home countries, including Mexico and Guatemala. NICK BRANCACCIO/Windsor Star



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
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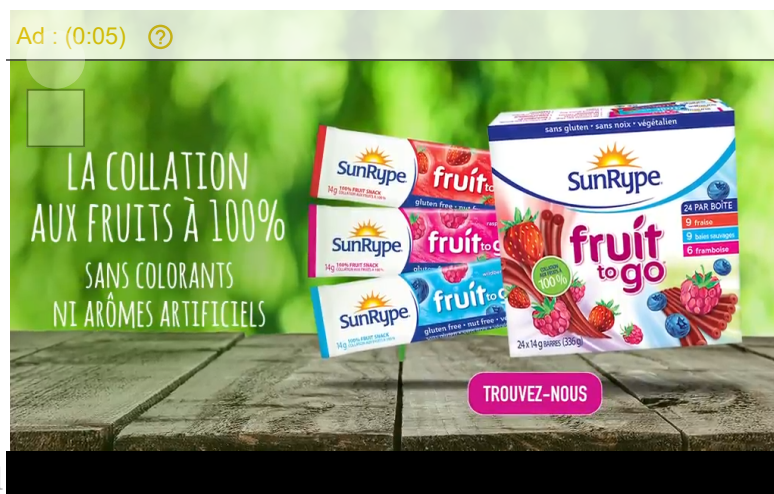
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Tired of what he described as constant workplace abuse, both physical and psychological, along with verbal humiliations on the part of his supervisors, Miguel turned to a Leamington pastor for help.

The church leader connected the farm worker with a paralegal he knew who spoke Spanish and advised the “very anxious” Guatemalan that he would talk to the owner.



Jennifer Jones named

He urged the father of six not to resign from the farm job he needed to support his family back home. Paralegal Cristian Biron, who has assisted other migrant workers, spoke to the farmer.

Hopeful, Miguel then also contacted the owner, who assured him he was “going to fix the problem.”