



Fair Work
OMBUDSMAN

NSW furniture and floor covering retailers' audit program

Report – November 2013

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Program snapshot

More than

200

businesses were audited.

Total of

62%

of employers were compliant.

Over

\$103k

was recovered on behalf of 105 employees.

Summary

The Fair Work Ombudsman (FWO) has conducted the furniture and floor coverings audit program (the program) in NSW.

The aim of the program was to promote and assess compliance with the *Fair Work Act 2009* (the Act), the *Fair Work Regulations 2009* (the Regulations) and the *General Retail Industry Award 2010* (the Award).

In conducting the program we reviewed time and wage records of 213 employers, to ensure they were paying their employees correctly, issuing pay slips with the required details and maintaining accurate records.

To assist employers with ongoing compliance, we also provided employers with information about their workplace obligations, in particular, by introducing them to our suite of online tools and resources.

Of the 213 employers audited, we found 131 (62%) to be compliant and 82 (38%) to be in contravention.

We recovered a total of \$103 552 for 105 employees.

Purpose of the audit program

The purpose of the program was to both promote and assess compliance with Australia's workplace laws among furniture and floor covering retailers in NSW.

The specific objectives of the program were to:

- assess compliance with record keeping and pay slip regulations
- assess compliance with correct rates of pay (including penalties and overtime)
- promote our self-help online tools and resources

- provide employers with information about their obligations and our suite of online resources.

Our industry partners

Before commencing the audits, we contacted stakeholders and provided them with an overview of the program by letter. We also sought their feedback and support in promoting the program amongst their members.

We contacted the following stakeholders:

- Furnishing Industry Association of Australia
- Shop, Distributive & Allied Employees Association, NSW Branch
- Australian Retailers Association

Why did we conduct the audit program?

When we analysed the complaints we received in New South Wales during 2010 and 2011, we identified a significant number of complaints from employees of furniture and floor covering retailers (the industry).

When we investigated these complaints we found that in over 70% of cases the employee had been under paid.

Based on the analysis, we decided that an audit program was as an effective way to assess compliance levels amongst businesses in the industry. Additionally, the program was initiated as an opportunity for us to engage with employers and provide them with correct information about their workplace obligations

What did we do?

In December 2012, we selected a random sample of businesses from across NSW, using the Australian Business Register.

We wrote to the selected employers to advise them of the program and to request a sample of their time and wage records for assessment.

Where we identified record keeping and pay slip contraventions, we explained these to the employer and provided them with information about correct record keeping practices. We also required them to agree in writing that they would maintain compliant records in the future.

In matters where we identified potential underpayments, we sought further information and records from the employer to enable further investigation of the apparent contraventions. If we confirmed the underpayments, we provided the employer with a written summary of our findings and sought their voluntary compliance in paying back any money owed employees who were underpaid.

In addition to conducting the assessments, we spoke with employers about their obligations and provided them with information and advice to help them both understand and comply with their obligations. In particular, we demonstrated our suite of online tools and resources, to assist employers with ongoing compliance.

What did we find?

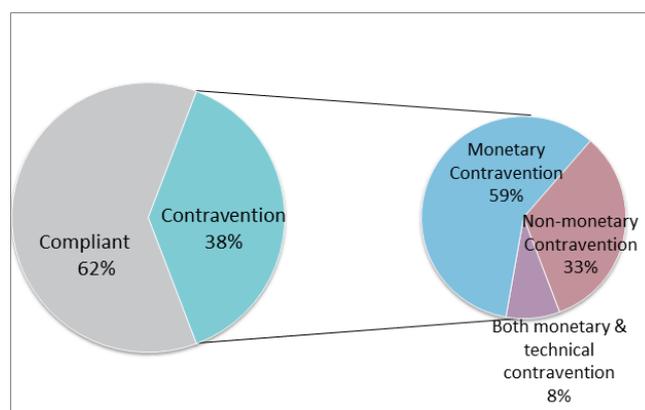
Of the 213 audits conducted, we found 131 (62%) employers compliant and 82 (38%) in contravention.

We recovered \$103 552 in underpayments on behalf of 105 employees.

Of the 82 businesses in contravention, 48 (59%) had monetary contraventions, 27 (33%) had technical

contraventions (related to pay slip and record keeping issues), and 7 (8%) had both.

Audit results:



The total of \$103 552 recovered for 105 employees, was recovered from 51 individual businesses.

The amounts of money recovered from the 51 individual businesses ranged from less than \$25 to over \$36 000.

Other findings

We found the majority of underpayments identified were due to a failure to pay the correct hourly rates prescribed by the Award.

With regards to record keeping and pay slips, the most common finding was a failure of employers to include their ABN or the details of the relevant superannuation fund on pay slips issued to employees.

Case study – employers must be familiar with their obligations

When we assessed the records of Happy House* we identified a significant underpayment affecting several employees.

The Fair Work Inspector who assessed the employer's records found that Happy House was not applying any provisions of the Award or the National Employment Standards regarding annual leave. Their employees were being paid less than the Award minimum and were not receiving penalty rates for weekend work. In addition, they were not paid for leave taken on public holidays.

As a result of the program Happy House has paid back 11 current employees and seven former employees a total of over \$36 000. Happy House has also subsequently joined an employer association, to receive ongoing assistance and support in conducting their business.

* Not the actual business name

Concluding remarks

In conducting the program we identified a reasonable level of compliance in the industry.

The program provided an important opportunity for us to engage with employers, and the opportunity to provide them with information and resources. We are hopeful this will assist businesses with ongoing compliance.

We were pleased by the co-operative response shown by employers, which was especially demonstrated by the fact that when we identified contraventions all of these were voluntarily rectified.

About the Fair Work Ombudsman

The Fair Work Ombudsman is an independent agency created by the Fair Work Act 2009 on 1 July 2009.

Our vision is fair Australian workplaces, and our mission is to work with Australians to educate, promote fairness and ensure justice in the workplace.

Our education and compliance campaigns target specific industries to assist them achieve compliance with national workplace laws. Our focus is usually industries that need assistance with compliance and employ vulnerable workers.

We like to work with relevant industry associations and unions to deliver our campaigns. We rely upon their 'real world' knowledge and communication channels to design and deliver our education activities and products.

This report covers the background, method and findings of the NSW furniture and floor covering retailers' audit program 2013.

For further information and media enquiries please contact media@fwo.gov.au.

If you would like further information about the Fair Work Ombudsman's targeted campaigns please contact Steve Ronson, Executive Director - Dispute Resolution and Compliance (steven.ronson@fwo.gov.au).

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