

Employer faces court for alleged underpayment of medical first aid responders

20 December 2017

The owner of a Melbourne health services company is facing court for allegedly short-changing medical first aid responders working at public events more than \$13,000 and using false pay records.

The Fair Work Ombudsman has commenced legal action against Melbourne man Paul Tempany and his company Acute Health Pty Ltd.

It is alleged Mr Tempany and Acute Health short-changed six employees a total of \$13,715 between March 2014 and November last year.

The six employees, including one aged just 21, were engaged as medical first responders on a casual basis to provide first aid services at events and functions in Victoria and NSW.

It is alleged that the underpayments were largely the result of Mr Tempany and his company failing to pay employees for all of the work they performed.

It is alleged Acute Health paid the employees flat rates of \$25 an hour for some hours worked – but failed to pay them anything at all for many of the hours they worked. One employee was allegedly paid nothing for more than 30 hours of work.

It is alleged the conduct resulted in underpayment of employees' minimum hourly rates, casual loadings and penalty rates for overtime and public holiday work.

Mr Tempany and his company allegedly also failed to provide minimum shift pay and a laundry allowance, failed to reimburse travel expenses and made unlawful deductions from wages to cover a uniform bond.

Alleged individual underpayments range from \$404 to \$3517.

Fair Work Ombudsman inspectors investigated after receiving requests for assistance from employees.

Mr Tempany and Acute Health allegedly also contravened workplace laws by failing to fully comply with six Notices to Produce issued by an inspector and by providing an inspector with falsified pay records.

Fair Work Ombudsman Natalie James says a key factor in the decision to commence litigation was Mr Tempany's alleged failure to ensure compliance with workplace laws despite inspectors having put him on notice in the context of investigating several previous underpayment allegations dating back to 2012.

"When genuine mistakes occur, our preference is to provide advice and guidance to employers and assist them to resolve issues at the workplace level," Ms James said.

"However, when our advice is ignored and issues are allowed to continue, we are prepared to take serious action, such as taking an employer to court."

Acute Health faces penalties of up to \$54,000 per contravention and Mr Tempany faces penalties of up to \$10,800 per contravention.

The Fair Work Ombudsman is also seeking an order for full back-payment of the employees, who have allegedly been only partially back-paid to date.

In addition, the Fair Work Ombudsman is seeking Court Orders requiring the company to commission external audits of its pay practices and rectify any underpayments found, and to require Mr Tempany to undertake workplace relations training.

An injunction restraining Mr Tempany and Acute Health from underpaying health services employees in future is also being sought. If the injunction is granted, they could face contempt of court proceedings for any further contraventions proven in court.

A hearing is listed in the Federal Circuit Court in Melbourne on March 19 next year.

Employers and employees can seek assistance at www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94. A free interpreter service is available on 13 14 50 and information on the website has been translated into 30 languages.

The Fair Work Ombudsman's online tools and resources can assist employers to determine their applicable Award, as well as classification and pay rates, allowances, overtime and penalty rates.

The Pay and Conditions Tool (PACT) provides advice on pay, shift, leave and redundancy entitlements and there are templates for pay slips and time-and-wages records.

The Fair Work Ombudsman's 'Record My Hours' smartphone app (www.fairwork.gov.au/how-we-will-help/how-we-help-you/record-my-hours-app) is aimed at tackling the persistent problem of underpayment of vulnerable young workers by using geofencing technology to provide workers with a record of the time they spend at their workplace. The app can be downloaded from the App Store and Google Play.

Follow Fair Work Ombudsman Natalie James on Twitter [@NatJamesFWO](https://twitter.com/NatJamesFWO) (<http://twitter.com/NatJamesFWO>), the Fair Work Ombudsman [@fairwork_gov_au](https://twitter.com/fairwork_gov_au) (http://twitter.com/fairwork_gov_au) or find us on Facebook www.facebook.com/fairwork.gov.au (<http://www.facebook.com/fairwork.gov.au>).

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Fair Work Online: www.fairwork.gov.au

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Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

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