

Plumbers who underpaid adult apprentice \$40,000 commit to change

17 May 2017

A plumbing business in regional Victoria which underpaid an adult apprentice more than \$40,000 after paying rates as low as \$7.37 per hour has committed to overhaul its workplace practices, after intervention by the Fair Work Ombudsman.

Bendigo Smartplumb Pty Ltd, based in Bendigo, has admitted inadvertently underpaying the worker's ordinary hourly rates and overtime after failing to identify that he was entitled to adult apprentice rates because he was aged 21 or older.

Fair Work Ombudsman inspectors investigated after receiving a request for assistance from the employee, aged in his early 20s, last year.

Inspectors found the worker had been underpaid a total of \$40,106 when he was employed at Bendigo Smartplumb over a period of two years between 2014 and 2016.

The worker was paid hourly rates of between \$7.37 and \$10.81 for all ordinary hours prior to the last six weeks of his employment.

The worker was usually not paid at all for overtime hours.

However, having started his apprenticeship aged 21 or older, under the Plumbing and Fire Sprinklers Award 2010 the worker was entitled to minimum rates of between \$15.32 and \$18.03 for ordinary hours and between \$22.98 and \$36.06 for overtime hours.

In one week, the worker was underpaid more than \$500 in overtime alone after working 58 hours – 20 hours more than the average set under the Award – without any overtime pay. The business also failed to pay the worker's TAFE fees.

Joel Evans and Jayson Wilson operated the business as a partnership until 2015, before establishing it as a corporate entity - Bendigo Smartplumb Pty Ltd - with them as directors.

The owner-operators of Bendigo Smartplumb told inspectors they had believed only workers aged over 25 were classed as adult apprentices.

Mr Evans and Mr Wilson cooperated with the Fair Work Ombudsman and the men and their company have entered into an Enforceable Undertaking (EU) aimed at encouraging behavioural change and future compliance with federal workplace laws.

Under the EU, they have agreed to back-pay the worker in-full within 12 months via a back-payment plan, provide a letter of apology to the worker and make a \$2000 donation to the Loddon Campaspe Community Legal Centre to assist promotion of workplace law compliance.

The company will also commission a professional audit of its compliance with workplace laws this year and next year and rectify any breaches, register with the Fair Work Ombudsman's online My Account portal and develop processes for future compliance.

Fair Work Ombudsman Natalie James says the matter is a reminder that employers can be left with a major unexpected wages bill if they fail to understand or seek advice on their legal obligations.

"Apprentices, like any worker starting a new career, can be particularly vulnerable, and we place a high importance on ensuring they are paid their full lawful entitlements," Ms James said.

Last year, the owners of a butcher store in Hobart entered into an EU to back-pay nearly \$20,000 after the Fair Work Ombudsman found they failed to correctly pay an adult apprentice – see [the media release \(www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2016-media-releases/december-2016/20161221-lindisfarne-butcher-release\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2016-media-releases/december-2016/20161221-lindisfarne-butcher-release).

In 2015-16, a total of \$3.85 million in underpaid wages and entitlements was returned to 2132 employees as a result of their employers entering into Enforceable Undertakings with the Fair Work Ombudsman.

Ms James says the Fair Work Ombudsman is committed to helping employers understand and comply with workplace laws, but operators need to make an effort to get the basics right in the first place.

The Fair Work Ombudsman offers a range of free tools and resources for employers at www.fairwork.gov.au including the Pay and Conditions Tool (PACT) to assist business owners to calculate pay rates applicable to their business.

Employers and employees can also contact the Fair Work Infoline on 13 13 94. Small businesses calling the Infoline can opt to be put through to a priority service for assistance. A free interpreter service is available on 13 14 50.

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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Download the [Bendigo Smartplumb Pty Ltd Enforceable Undertaking \(DOCX 154.3KB\)](http://www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-bendigo-smartplumb-redacted.docx.aspx) (www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-bendigo-smartplumb-redacted.docx.aspx) (PDF 1.8MB) (www.fairwork.gov.au/ArticleDocuments/971/enforceable-undertaking-bendigo-smartplumb-redacted.pdf.aspx)

Media inquiries:

Matthew Raggatt, Senior Media Adviser

Mobile: 0466 470 507

matthew.raggatt@fwo.gov.au (<mailto:matthew.raggatt@fwo.gov.au>)

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Contact us

Fair Work Online: www.fairwork.gov.au

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