

Global SIM card provider back in Court after alleged failure to get message

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The Australian arm of a global mobile SIM card provider that was penalised \$59,400 for exploiting migrant workers is again facing legal action after the alleged underpayment of an employee at its NSW headquarters in Parramatta.

The Fair Work Ombudsman has commenced legal action for the second time against Lycamobile Pty Ltd in the Federal Circuit Court.

Acting Fair Work Ombudsman Kristen Hannah says the decision to take legal action was made because of the retail giant's alleged failure to put in place adequate corrective processes after the 2013 penalty decision, which related to underpayments to staff in Adelaide and Brisbane.

The latest litigation relates to allegations an administrative employee in Parramatta was underpaid for overtime hours worked between 2012 and 2015.

The Fair Work Ombudsman commenced an investigation into the matter after receiving a request for assistance from the employee.

The employee was engaged by Lycamobile to perform administrative work and was contracted to work 40 hours per week plus reasonable additional hours for a base salary of between \$33,867 and \$37,742 per year. It is alleged she frequently worked additional overtime hours, including on Saturdays.

The employee received periodic payments on top of her base salary, designated as "allowance" and "arrears", that the Fair Work Ombudsman alleges were insufficient to satisfy the minimum entitlements for overtime hours under the Award.

It is alleged that during the employment period the worker performed 604.67 overtime hours and was entitled to between \$25.71 and \$38.20 per hour under the Telecommunication Services Award 2010, or \$16,736 in total.

Lycamobile allegedly only paid the employee \$11,472 for overtime hours, resulting in an underpayment of \$5264. The alleged underpayment has now been fully rectified.

Ms Hannah says it is disappointing there is cause to initiate legal action against Lycamobile for a second time.

"It is of grave concern whenever we uncover allegations that an employer has failed to learn from past mistakes," Ms Hannah said.

"We make it clear that while we understand oversights sometimes occur, we take a dim view of those who make repeated errors and will not hesitate to pursue serious enforcement action when we come across these allegations."

Lycamobile faces penalties of up to \$54,000 per contravention.

The Fair Work Ombudsman is also seeking orders requiring Lycamobile to provide workplace relations compliance training to its managers at its own expense, and undertake an external audit to identify other underpayments of its employees' wages and entitlements.

The matter is listed for directions in the Federal Circuit Court in Sydney on February 2 2018.

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