

## Court penalty for ABCO Plastics

17 December 2018

A Sydney plastics manufacturing company that underpaid two Sri Lankan visa holders has been penalised by the Federal Circuit Court after failing to meet a deadline to back-pay these workers.

Delahill Pty Ltd, which trades as ABCO Plastics at Guildford, has been penalised \$15,000 and one of its directors, Guilherme Roque Rebello, \$3,000 after legal action by the Fair Work Ombudsman.

Fair Work Inspectors first investigated the company after two employees, a husband and wife, made requests for assistance. The couple, aged in their 50s, were in Australia on bridging visas.

Inspectors found the couple were paid low flat hourly rates, with each paid just \$6.50 per hour during a probation period, later increasing to \$13 to \$14. The couple were entitled to hourly rates of more than \$17 for ordinary hours and up to \$32 for overtime.

The low rates led to the wife being underpaid \$76,498 between January 2010 and September 2014 and the husband being underpaid \$10,197 between July 2009 and June 2010.

The Court found Delahill breached workplace laws by failing to abide by a Compliance Notice that required the company to back-pay the couple \$86,695 by 30 April 2015.

Six months after the FWO's legal proceedings commenced, Delahill made the full back-payments required in the Compliance Notice in December 2015.

Fair Work Ombudsman Sandra Parker said the agency made extensive efforts to resolve the matter outside of court, but lack of co-operation from the company led to legal action.

"Under the Fair Work Act, business operators must adhere to our Compliance Notices. We took court action after the company provided no reasonable excuse for its failure to make the back-payments," Ms Parker said.

"Failing to comply with our notices undermines the integrity of the workplace relations system, and we will continue to take legal action to ensure that employees receive the back-pay they are entitled to," Ms Parker said.

Federal Circuit Court Judge Robert Cameron said the sums owed to the couple were a significant amount and Delahill's failure to abide by the compliance notice had a "significant effect" on them.

"[The couple] deposed that they felt sad and stressed working for such low wages and struggled to meet their living expenses and buy food," Judge Cameron said.

"Instead of accepting responsibility for the underpayment on behalf of Delahill, Mr Rebello instead blamed [the couple] for accepting the underpayments," Judge Cameron said.

Employers and employees can visit [www.fairwork.gov.au](http://www.fairwork.gov.au), call the Fair Work Infoline on 13 13 94 or an interpreter service on 13 14 50 for free advice about workplace rights and obligations.

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