

\$31,000 penalty for underpaying visa workers

30 July 2018

The Fair Work Ombudsman has secured \$31,590 in penalties against Rockhampton-based business Alertvale Pty Ltd that underpaid two Filipino visa holders \$9,931 when it made them redundant. The company operates businesses providing services in the mining and heavy industry sector in regional Queensland.

In February 2016, Alertvale terminated the two workers' employment effective immediately. The company failed to fully pay their owed payment in lieu of notice of termination, and failed to pay any of their four weeks' redundancy entitlements. Alertvale also unlawfully deducted \$1,915 from the two workers' wages for training.

Both workers, employed as welders, were Filipino nationals and had been sponsored by Alertvale on 457 skilled migrant visas for more than a year. The underpayments were rectified 16 months after the contraventions occurred, after the company was contacted by Fair Work inspectors.

Fair Work Ombudsman Sandra Parker said the penalty should serve as a warning to all employers to pay employees the redundancy entitlements they are owed.

"If companies don't pay termination entitlements it can have a significant impact on employees, depriving them of a crucial safety net until they obtain a new job," Ms Parker said.

"We treat matters where employers fail to provide basic lawful entitlements to vulnerable employees very seriously. Every single worker in Australia has the same workplace rights, regardless of their visa status, ethnicity or linguistic background."

Judge Robert Harper criticised Alertvale for failing to provide correct entitlements to its employees, saying the failure was "both reckless and negligent".

Judge Harper noted that the company had increased in size from about 180 employees in August 2016 to more than 350 employees in March this year, but still did not have a dedicated human resources department.

"[Alertvale] operates in the mining and heavy industry sectors which are known for experiencing downturns which lead to redundancies and terminations like those experienced by the Employees," Judge Harper said.

In issuing the penalty, Judge Harper said general deterrence was "of fundamental importance to deter those employers who may be tempted to exploit the specific vulnerabilities of employees reliant on their employers for the ability to remain in Australia."

The company provided evidence to the Court that it had now required its directors to undertake training in relation to their employer obligations, and would require employees to complete training about workplace laws.

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