

Bundaberg transport company penalised \$80,000

30 October 2018

The Fair Work Ombudsman has secured an \$80,000 penalty against a Bundaberg-based transport company for underpaying an employee more than \$11,000 over a period of just nine months.

Bundaberg Refrigerated Transport Pty Ltd, which transports refrigerated farm produce to various destinations across Australia, including Brisbane, Sydney, Melbourne and Adelaide, has received the penalty in the Federal Circuit Court.

Between October 2014 and July 2015, the company paid the employee a flat hourly rate of \$23, despite her being entitled to ordinary hourly rates of up to \$26.09 as a casual employee, up to \$41.74 for overtime and weekend work, and up to \$52.18 on public holidays under the company's enterprise agreement.

Bundaberg Refrigerated Transport also underpaid the worker's annual leave entitlements, failed to provide the employee with the terms of her employment in writing, and failed to provide a Fair Work Information Statement when she commenced work.

Fair Work Inspectors investigated after the employee lodged a request for assistance. The agency had previously informed Bundaberg Refrigerated Transport about its obligations when investigating requests from other workers.

Fair Work Ombudsman Sandra Parker said the Court's penalty should serve as a warning to businesses to comply with their legal obligation to workers.

"Employers have a responsibility to fully pay the minimum rates and entitlements that apply to their employees. We are prepared to take legal action to enforce workplace laws, especially if businesses have been put on notice. Any workers with concerns should contact the Fair Work Ombudsman," Ms Parker said.

Judge Salvatore Vasta said Bundaberg Refrigerated Transport breaching its own enterprise agreement "must be seen in a very serious light".

"I am still of the view that there is no excuse for a failure to comply with one's own document, and in that respect, the breaches were deliberate," Judge Vasta said.

Judge Vasta also noted that: "There has still been no apology for, to use the vernacular, ripping off an employee over that nine month period".

Judge Vasta found that there was a need to impose a penalty for the purpose of deterrence.

"Deterrence will only occur if the penalty is such that it not only tells this Respondent that such conduct is totally against what our society stands for, but allows others who are in the same position as the Respondent company to think twice before failing to honour their obligations under the FW Act," Judge Vasta said.

Bundaberg Refrigerated Transport has back-paid the employee in full. In addition to the penalty, Judge Vasta ordered Bundaberg Refrigerated Transport to make hard copies of its enterprise agreement available at its premises, and to display workplace notices containing information about employee entitlements and Fair Work Ombudsman contact details.

Employers and employees seeking advice and assistance can visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94. An interpreter service is available on 13 14 50.

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