

## Penalty for NSW cleaning operator

20 December 2019

The Fair Work Ombudsman has secured penalties of \$17,190 against a Gosford cleaning operator who failed to comply with a Compliance Notice that required him to back-pay two workers.

The Federal Circuit Court ordered penalties against Scott Redmond, a sole trader (at the relevant time) who operates a business on the NSW Central Coast trading as Cleaning Excellence.

After two cleaners lodged online enquiries, a FWO inspector investigated and formed a reasonable belief Mr Redmond underpaid minimum hourly rates, casual loading and night shift entitlements under the Cleaning Services Award 2010 between 2015 and 2017.

The Fair Work Ombudsman issued Mr Redmond a Compliance Notice in April last year, requiring him to back-pay the cleaners. Total payments required by the notice were \$3,195.

Under the Fair Work Act, business operators must comply with Compliance Notices unless they have a reasonable excuse, or decide to challenge a notice in Court. Mr Redmond did not back-pay the workers, provide a reasonable excuse for not doing so, or apply for review of the Notice. The back-payments are still yet to be paid.

Mr Redmond also failed to comply with a Notice to Produce employment records and failed to comply with his obligation to include required information in pay slips.

Fair Work Ombudsman Sandra Parker said the decision sent a clear message to employers.

“The Fair Work Ombudsman enforces compliance with notices to protect employees and the integrity of workplace relations laws. We will not hesitate to take court action against business operators who fail to comply with our notices,” Ms Parker said.

“We encourage cleaning companies to join the [Cleaning Accountability Framework \(http://www.cleaningaccountability.org.au/\)](http://www.cleaningaccountability.org.au/) . This industry-led initiative promotes the adoption of best practice throughout the cleaning supply chain to improve labour and cleaning standards in Australia.”

Judge Brana Obradovic said Mr Redmond’s breaches were deliberate and his conduct “demonstrates a lack of insight into the seriousness of the contraventions”.

“It is vital for the purposes of the [Fair Work Act] that the public is left in no doubt that there is a positive obligation to comply with statutory notices issued by the [Fair Work Ombudsman], such as Notices to Produce Records or Documents and Compliance Notices,” Judge Obradovic said.

Her Honour said failing to issue proper payslips “leave[s] the employees significantly disempowered, creating a structure within which breaches of industrial laws can easily be perpetrated”.

Her Honour also observed that “had the Respondent complied with the Notice to Produce, the Compliance Notice, or Infringement Notice (or heeded the warnings of the regulator to comply with the underlying obligations), the proceedings would not likely have been brought. It is of real concern that his disregard for his lawful obligations and the regulator’s tools has necessitated the bringing of proceedings to ensure compliance”.

Employers and employees can visit [www.fairwork.gov.au](http://www.fairwork.gov.au) or call the Fair Work Infoline on 13 13 94 for free advice and assistance about their rights and obligations in the workplace.

Small business callers can opt to receive priority service via the Small Business Helpline and an interpreter service is available on 13 14 50.

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