

## Penalty for underpayment of Sydney security guards

3 July 2019

The Fair Work Ombudsman has secured a penalty of \$39,090 against a former Sydney security company operator for underpaying dozens of security guards.

The Federal Circuit Court imposed the penalty on Sydney man John Lohr, who formerly operated Brookvale-based companies Safecorp Security Pty Ltd and Safecorp Security Group Pty Ltd. The companies are no longer operating.

Mr Lohr was involved in the companies, underpaying 45 security guards employed on a casual basis at various sites a total of \$35,540.84.

The underpayments were largely the result of the guards being paid flat hourly rates of \$20 to \$25, which at times did not cover their casual loadings, weekend, night work, overtime and public holiday entitlements.

The Court has ordered that the penalty be used to repay affected guards.

Fair Work Ombudsman Sandra Parker said employers who pay unlawfully low flat rates risk facing court action.

“The use of low, flat rates that undercut lawful minimums has been a persistent problem in the security industry and employers in this sector need to get the message that it is completely unacceptable,” Ms Parker said.

Judge Nicholas Manousaridis found that Mr Lohr was aware an Award applied to employees of the Safecorp Security companies but decided to pay the employees flat rates, not knowing whether the rates would be sufficient to meet Award obligations.

This resulted in underpayment of the penalty rates as well as underpayment of casual loadings and a broken shift allowance under the Securities Services Industries Award 2010. The biggest underpayment of an individual employee was \$9,756.

The Fair Work Ombudsman discovered the underpayments when it investigated complaints lodged by employees. Pay slip laws were also contravened.

Judge Manousaridis described Mr Lohr’s decision to pay flat rates as “reckless” and said there was no evidence he had taken corrective action, exhibited contrition or cooperated to any significant degree with the Fair Work Ombudsman.

“The penalty should be set to signal to employers generally the importance of complying with the Fair Work Act and with complying with awards that cover them and their employees,” Judge Manousaridis said.

Employers and employees seeking assistance can visit [www.fairwork.gov.au](http://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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