

## Melbourne toy retailer faces increased penalties

29 May 2019

The Fair Work Ombudsman has commenced its first legal action under the serious contravention provisions of the Protecting Vulnerable Workers laws, for the alleged underpayment of workers selling Christmas toys.

Facing the Federal Circuit Court is Melbourne man Eyal Israel and his company IE Enterprises Pty Ltd, who operated Uncle Toys pop-up stores in Ringwood, Hoppers Crossing, Preston, Frankston, Narre Warren, Cheltenham and Wantirna South shopping centres.

Under the Protecting Vulnerable Workers laws, which came into effect in September 2017, the maximum penalties that apply for serious contraventions are \$630,000 per breach for a company and \$126,000 for an individual, 10 times the penalties which would ordinarily apply.

The FWO alleges that Mr Israel and his business paid eight workers unlawfully low rates (from as little as \$6.70 an hour), and did not pay some employees at all for some hours worked. Alleged underpayments of individual employees ranged from \$395 to \$5,041 reaching a total of \$21,748. None of the underpayments have been rectified.

Affected employees were temporary visa holders from countries including Malta, the Netherlands and Korea, and most were aged in their 20s. They were allegedly underpaid for between one and nine weeks of work performed between October 2017 and January 2018.

The FWO has received requests for assistance from former employees of IE Enterprises dating back several years, and previously issued the company with a letter of caution, education materials, pay guides and Notices to Produce employment documents.

Fair Work Ombudsman Sandra Parker says the Protecting Vulnerable Workers laws were enacted in response to community concerns about the exploitation of employees in Australia.

"This is the first time the Fair Work Ombudsman will be relying on the new serious contraventions provisions in Court, which carry maximum penalties ten times higher than traditional contraventions," Ms Parker said.

"We're arguing that five alleged contraventions are serious because Uncle Toys and its director failed to correct the non-compliance, despite extensive engagement with us."

"We're also utilising new reverse onus of proof provisions that require employers to disprove underpayment allegations in Court if they have failed to adequately comply with time-and-wages records and pay slip obligations," Ms Parker said.

"The Fair Work Ombudsman offers free workplace advice to employers and employees. We encourage anyone with concerns about their workplace rights or obligations to contact us."

The low, flat rates and non-payment for some work performed allegedly resulted in underpayment of minimum rates for ordinary hours, casual loadings and the weekend and public holiday penalty rates the employees were entitled to under the General Retail Industry Award 2010. It is alleged that an unlawful deduction was also made from one employee's wages.

IE Enterprises Pty Ltd and Mr Israel face maximum penalties of up to \$630,000 and \$126,000 per contravention, respectively, for the five alleged serious contraventions relating to minimum wages, failing to issue pay slips, failing to keep records, failing to pay employees in full and making an unlawful deduction.

The FWO also alleges that Uncle Toys provided three of the employees with false or misleading pay slips that contained the wrong business name and an invalid Australian Business Number. Maximum penalties for payslip breaches are \$63,000 for the company and \$12,600 for the individual.

The Fair Work Ombudsman is also seeking a Court order requiring Mr Israel and his company to back-pay the eight employees in full. A directions hearing is listed in the Federal Circuit Court in Melbourne on 2 August 2019.

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. A free interpreter service is available on 13 14 50.

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