

Westside Petroleum penalised for underpayments

4 October 2019

The Fair Work Ombudsman has secured \$57,000 in penalties in Court against major service station chain Westside Petroleum and three of its management staff for underpaying 22 employees a total of \$62,393.

The underpayments occurred at 12 petrol stations - at Adaminaby, Wagga Wagga, Finley, Gurley, Somerton, Temora, Tolland, Blayney, Glen Innes, Peak Hill and Cooma in NSW, and at Lismore in Victoria – for periods between July 2015 and May 2016.

Westside Petroleum Retail 1 Pty Ltd has been penalised \$45,000, and general manager Patrick Riad, company accountant Francesco Ieraci and area manager Shahzaib Khawaja have each been penalised \$4000, in the Federal Circuit Court.

The underpayments were the result of Westside Petroleum generally paying employees unlawfully low, flat rates ranging from \$15 to \$25 an hour. This resulted in underpayment of employees' casual weekday, weekend, public holiday and overtime rates under the Vehicle Manufacturing, Repair, Services and Retail Award.

Fair Work Ombudsman Sandra Parker said the matter serves as a warning to employers about paying flat rates rather than applying the relevant Award.

"The Fair Work Ombudsman has been highlighting for many years that the use of low, flat rates that undercut lawful minimums is a clear breach of workplace laws. Any employer paying their staff with flat rates less than the relevant minimum rate faces enforcement action. Any employees with concerns about their pay should contact us," Ms Parker said.

Inspectors audited Westside Petroleum following requests for assistance from employees.

The 22 affected service station workers were underpaid amounts ranging from \$347 to \$7772, with four of the employees aged just 19 at the time. Two affected workers were visa holders with one employee on a 489 regional sponsored visa. All employees have been back-paid in full.

Judge Robert Cameron found that the underpayments were deliberate and said they were "not insignificant", with some employees underpaid approximately \$1000 per month.

Addressing Westside Petroleum's submission that it was rapidly expanding at the time, Judge Cameron said "the commercial imperative to seize new business opportunities can explain distraction from issues of compliance but it does not excuse it".

"It is unacceptable that Westside Petroleum focussed on the growth of its business and failed to have proper regard to very basic employer obligations," Judge Cameron said. Judge Cameron ordered the company to provide its franchisees with information about workplace laws and display workplace notices providing information on workplace laws.

Employers and employees seeking 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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