

Penalties for Sydney childcare operator

19 August 2020

The Fair Work Ombudsman has secured \$30,240 in penalties against a former Sydney childcare centre operator for failing to back-pay two migrant employees who worked for the centre under the guise of a volunteer arrangement.

The Federal Circuit Court has imposed a \$5,040 penalty against Sydney man Jan Shang, who formerly operated the Joys Child Care centre in Parramatta, and has penalised his company, Joys Child Care Limited, an additional \$25,200.

The Court imposed the penalties after finding that Mr Shang and his company had breached workplace laws by failing to comply with two Compliance Notices issued by the FWO.

The Compliance Notices required Joys Child Care to back-pay two childcare employees, who had been paid nothing despite being entitled to a total of \$54,752 in wages and entitlements for work they performed between February 2016 and February 2017.

In addition to the penalties, the Court had previously ordered Joys Child Care to comply with the Compliance Notices by rectifying the underpayments totalling \$59,604 with interest.

Both employees were originally from China. One is a permanent resident of Australia, while the other was a visa-holder when she worked for Joys Child Care.

Fair Work Inspectors investigated after the employees asked for assistance and found that the volunteer arrangement was not legitimate because they had performed productive work under little supervision that was not a formal part of their tertiary studies.

Fair Work Ombudsman Sandra Parker said the case reinforced the importance of Compliance Notices in helping inspectors recover wages for underpaid workers.

“Compliance Notices are an important tool we use to get unpaid wages back into workers’ pockets in a timely manner outside of the courts. If employers do not comply with Compliance Notices, they can face court action and fines, in addition to the initial wages back-payment bill,” Ms Parker said.

Ms Parker said that employers are at risk of underpaying workers if they do not properly consider whether the workers are actually employees who are entitled to be paid wages and entitlements for work performed.

“The Fair Work Ombudsman has developed a range of [resources \(http://www.fairwork.gov.au/unpaidwork\)](http://www.fairwork.gov.au/unpaidwork) to help businesses understand what constitutes legitimate unpaid arrangements and vocational arrangements under the Fair Work Act. Any workers with concerns about their working arrangements should contact us,” Ms Parker said.

Employers and employees can visit 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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