

Brisbane sole trader faces legal action

9 March 2020

The Fair Work Ombudsman has commenced legal action against a Brisbane sole trader for allegedly underpaying a young employee more than \$5,000 and failing to comply with a Fair Work Commission order.

Facing the Federal Circuit Court is Simon John Hickey, trading as Smerff Electrical.

In January 2019, the Fair Work Commission ordered Mr Hickey to pay \$11,400 in compensation to an employee, aged in his early 20s, after it found he had been unfairly dismissed after working for Mr Hickey as a casual trade assistant and later as an apprentice electrician.

Mr Hickey unsuccessfully appealed against the Fair Work Commission order last year.

The Fair Work Ombudsman alleges that Mr Hickey breached the Fair Work Act by failing to pay the compensation awarded under the Fair Work Commission order.

The Fair Work Ombudsman further alleges that Mr Hickey underpaid the employee \$5,504.34 in minimum wages and entitlements over almost three months in 2017 by paying him flat rates of \$12 to \$15 an hour. Superannuation contributions were also allegedly not made by Mr Hickey.

Fair Work Ombudsman Sandra Parker said that the agency commenced an investigation after the compensation amount was not paid.

“It is fundamental for the integrity of the workplace relations system that orders made by the Fair Work Commission are complied with, and we will take legal action to hold employers accountable and ensure employees receive compensation,” Ms Parker said.

“Employers should be aware that it is a priority for the Fair Work Ombudsman to protect the workplace rights of young employees who can be particularly vulnerable to unlawful treatment. Any workers with concerns about their pay or entitlements should contact us.”

Mr Hickey faces a penalty of up to \$12,600 for allegedly breaching the Fair Work Act by failing to comply with the Fair Work Commission order. Mr Hickey faces additional penalties of up to \$10,800 per contravention for a number of alleged contraventions of the Electrical, Electronic and Communications Contracting Award 2010.

The Fair Work Ombudsman is also seeking a court order for Mr Hickey to pay the outstanding compensation and underpayment amounts allegedly owed, plus interest.

A directions hearing is listed in the Federal Circuit Court in Brisbane on 1 April, 2020.

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