

Convenience stores in court

18 September 2020

NOTE: On 4 August 2020, the Federal Circuit Court ordered that (by operation of the Corporations Act 2001 (Cth)) the proceedings be stayed against 3 Rundle Mall Pty Ltd and 132 Grenfell Street Convenience Pty Ltd due to both companies being placed into liquidation.

11 May 2020

The Fair Work Ombudsman has commenced legal action in the Federal Circuit Court against the former operators of two convenience stores in Adelaide.

Facing Court are 3 Rundle Mall Pty Ltd and 132 Grenfell Street Convenience Pty Ltd, which operated 'City Convenience' stores at the corresponding addresses in the Adelaide CBD until late last year. Also facing Court is the sole director of both companies, Mr Ethan Okili.

Fair Work Inspectors commenced an investigation into payment practices at the two City Convenience stores after receiving a request for assistance from a retail assistant.

The regulator alleges the companies and Mr Okili failed to comply with Compliance Notices requiring the companies to calculate and back-pay any outstanding amounts owing to employees.

The FWO also alleges the companies and Mr Okili failed to comply with Notices to Produce records issued by an inspector and failed to issue pay slips, in breach of the Fair Work Act.

The Compliance Notices were issued last year after an inspector formed a belief that employees had been underpaid minimum hourly wage rates, overtime rates and penalty rates for weekend, evening and public holiday work under the General Retail Industry Award 2010 for work performed between November 2018 and August 2019.

Fair Work Ombudsman Sandra Parker said that the regulator will enforce workplace laws in a proportionate manner during the COVID-19 pandemic, and that includes continuing to take businesses to court where lawful requests are not complied with.

"Under the Fair Work Act, Notices to Produce and Compliance Notices are important tools used by inspectors if they form a belief that an employer has breached workplace laws," Ms Parker said.

"Where employers do not comply with our notices, we will take appropriate action to protect employees. A court can then order them to pay penalties in addition to back-paying workers."

"Any employees with concerns about their pay or entitlements should contact us for assistance," Ms Parker said.

The companies each face penalties of up to \$63,000 per contravention, while Mr Okili faces penalties of up to \$12,600 per contravention.

The FWO is also seeking a Court Order requiring the companies to comply with the Compliance Notices, which includes rectifying underpayments in full, plus superannuation and interest.

A directions hearing has been listed in the Federal Circuit Court in Adelaide on 4 August 2020.

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.

Know a workplace that isn't doing the right thing but don't want to get involved? Report it to us anonymously (www.fairwork.gov.au/workplace-problems/fixing-a-workplace-problem/anonymous-report/anonymous-tipoff) – in your language

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Fair Work Online: www.fairwork.gov.au

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Contact the Translating and Interpreting Service (TIS) on 13 14 50

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Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

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