

Women's health clinic in court

20 November 2020

The Fair Work Ombudsman has commenced legal action in the Federal Circuit Court against the operator of a women's health clinic in Melbourne for allegedly withholding Government-funded parental leave payments from an employee.

Facing court are The Pagoda Tree (Vic) Pty Ltd, which operates The Pagoda Tree clinic in Albert Park, and the company's sole director and owner, Ms Natalie Jade Kringoudis.

The affected worker was employed as a Chinese Medicine Practitioner at the clinic when she took parental leave in 2018 and gave birth.

After the employee successfully applied for the Commonwealth Government's Paid Parental Leave scheme, the Department of Human Services (now known as Services Australia) transferred \$12,948.30 to The Pagoda Tree between December 2018 and January 2019.

Under the Paid Parental Leave Act, The Pagoda Tree was required to transfer the funds to the employee in a series of instalments finishing in March 2019, but allegedly breached the Act by transferring less than half of the funds to the employee during her period of paid parental leave.

The FWO also alleges the company breached the Fair Work Act by underpaying the employee a total of \$10,296 in annual leave entitlements, casual loading and Saturday loadings between 2016 and 2019, and by contravening record-keeping laws.

Fair Work Ombudsman Sandra Parker said it was important for the regulator to protect the integrity of Commonwealth Government-funded schemes designed to assist parents.

"Paid Parental Leave funds are for the direct benefit of parents, not employers, and we will act to ensure they are passed on in full as the law requires," Ms Parker said.

"All employee pay entitlements must be respected, and we will continue to take legal action in response to significant alleged contraventions. Workers with concerns should contact us."

After the employee complained to the Department of Human Services that her employer had not paid her the paid parental leave funds in full, the matter was referred to the Fair Work Ombudsman.

It is alleged that after the FWO investigated and contacted the company, the company paid the outstanding parental leave funds to the employee in May 2020. The company rectified the alleged outstanding Fair Work Act underpayments by September 2020.

The Pagoda Tree (Vic) Pty Ltd faces penalties of up to \$63,000 per contravention and Ms Kringoudis faces penalties of up to \$12,600 per contravention. A directions hearing is listed in the Federal Circuit Court in Melbourne for 15 February 2021.

It is only the second time the Fair Work Ombudsman has taken legal action against an employer for allegedly failing to transfer Paid Parental Leave funds to an employee. The [first matter \(www.fairwork.gov.au/about-us/news-and-media-releases/2018-media-releases/may-2018/20180523-noorpreet-penalty\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/2018-media-releases/may-2018/20180523-noorpreet-penalty) was finalised in 2018.

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