

Electrical services business in court

1 October 2020

The Fair Work Ombudsman has commenced legal action in the Federal Circuit Court against an electrical services business based in Brisbane.

Facing court is Sphere 38 (BNE) Pty Ltd and company director Gregory Dale Johnston.

The regulator investigated earlier this year after receiving several requests for assistance from workers at the Newstead-based company.

A Fair Work Inspector issued Sphere 38 (BNE) with a Compliance Notice in April after forming a belief that the company had failed to correctly pay three of its full-time electricians for their untaken annual leave entitlements upon finishing their employment.

The inspector believed this breached the workers' entitlements under the Electrical, Electronic and Communications Contracting Award 2010 and National Employment Standards.

The FWO alleges that the company, without reasonable excuse, failed to comply with the Compliance Notice. The notice required the company to calculate and back-pay the worker's entitlements.

In line with the FWO's proportionate approach to regulation during the COVID-19 pandemic, the FWO made several attempts to secure voluntary compliance before commencing legal proceedings.

Fair Work Ombudsman Sandra Parker said that the regulator would continue to enforce workplace laws and take businesses to court where lawful requests are not complied with.

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

"Where employers do not comply with our requests, we will take appropriate action to protect employees. A court can order the business to pay penalties in addition to back-paying workers," Ms Parker said.

"Any employees with concerns about their pay or entitlements should contact the Fair Work Ombudsman for free assistance."

The Fair Work Ombudsman is seeking a penalty against Sphere 38 (BNE) Pty Ltd and its director Gregory Dale Johnston. The regulator is also seeking court orders for the company to comply with the Compliance Notice (which includes rectifying any underpayments in full and paying superannuation) and to pay interest on the underpayments.

Sphere 38 (BNE) is facing a maximum penalty of \$31,500 while Mr Johnston is facing a maximum penalty of \$6,300. A directions hearing was listed in the Federal Circuit Court in Brisbane on 30 September 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.

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Fair Work Online: www.fairwork.gov.au

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