

## Civil works company in court

19 April 2021

The Fair Work Ombudsman has commenced legal action in the Federal Circuit Court against a civil works company located in the Gold Coast hinterland region in Queensland.

Facing court is TKN Civil Works 2019 Pty Ltd, which is based at Maudsland and provides services such as earthmoving within the construction industry.

The regulator investigated after receiving a request for assistance from a worker who had been employed by TKN Civil Works 2019 Pty Ltd as an estimator/project manager.

A Fair Work Inspector issued a Compliance Notice to TKN Civil Works 2019 Pty Ltd in November 2020 after forming a belief that the worker had not been paid-out his untaken accrued annual leave and leave loading entitlements when his employment ended last year.

The FWO alleges the company, without reasonable excuse, failed to comply with the Compliance Notice, which required it to calculate and back-pay the worker's outstanding 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 action.

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

"Compliance Notices are important tools used by inspectors to deal with apparent contraventions of the Fair Work Act or industrial instruments, most typically Modern Awards," Mr Campbell said.

"Where employers do not respond to or comply with these Notices, we will take appropriate enforcement action to protect employees. A court can order a business to pay penalties for not complying with such a Notice, in addition to back-paying workers as appropriate."

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

The FWO is seeking a penalty against TKN Civil Works 2019 Pty Ltd. The company faces a maximum potential penalty of up to \$33,300.

The regulator is also seeking a court order for TKN Civil Works 2019 Pty Ltd to take the action required by the Compliance Notice, which includes calculating and rectifying any underpayments for the worker.

A directions hearing is listed in the Federal Circuit Court in Brisbane on 14 May 2021.

Employers and employees can visit [www.fairwork.gov.au](http://www.fairwork.gov.au) (<http://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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