

Trucking company penalised

20 April 2021

The Fair Work Ombudsman has secured a \$20,000 penalty in court against a road transport business based on the Gold Coast.

The Federal Circuit Court has imposed the penalty against Trucking Services Pty Ltd, which is based at Southport.

The penalty was imposed in response to Trucking Services breaching the Fair Work Act by failing to comply with a Compliance Notice requiring it to calculate and back-pay entitlements owed to a truck driver for work between June 2017 and August 2018.

In addition to the penalty, the Court has ordered Trucking Services to comply with the Compliance Notice, including back-paying the driver's outstanding entitlements in full, plus superannuation and interest.

Acting Fair Work Ombudsman Michael Campbell said companies that fail to act on Compliance Notices face court-imposed penalties in addition to having to back-pay underpaid staff.

"We make every effort to secure voluntary compliance with Compliance Notices but where they are not followed, we are prepared to take legal action to ensure workers receive all their lawful entitlements," Mr Campbell said.

"Any employees with concerns about their pay or entitlements should contact us for free advice and assistance."

Fair Work Inspectors commenced an investigation into Trucking Services after receiving a request for assistance from the affected truck driver.

The Compliance Notice was issued in October 2019 after a Fair Work Inspector formed a reasonable belief that Trucking Services had underpaid the driver's minimum wages, overtime rates, weekend and public holiday penalty rates, carting livestock allowance and annual leave entitlements under the Road Transport and Distribution Award 2010.

In the decision Judge Michael Jarrett remarked that Trucking Services had been given ample time and multiple opportunities to comply with the Compliance Notice, had demonstrated a disregard for its lawful obligations under the FW Act and for the Fair Work Ombudsman, and there was no evidence of contrition or regret.

"The respondent's failure to comply with the notice undermines the Fair Work Act's enforcement framework and the safety net of entitlements it is designed to protect. I accept that it reflects a prioritisation of the respondent's own interests over the minimum entitlements under the Road Transport Award and the Fair Work Act due to one of its employees," Judge Jarrett said.

Judge Jarrett said the failure to comply with a compliance notice issued by the Fair Work Ombudsman is serious and there was a need to impose a penalty that would deter other employers from failing to comply with Compliance Notices.

"The penalty in this case must be set at a level such that it would be likely to act as a deterrent in preventing similar contraventions by like-minded persons," he said.

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