

Building business in court

22 April 2021

The Fair Work Ombudsman has commenced legal action in the Federal Circuit Court against the operators of a building business in Victoria.

Facing court are L.E.C. Builders & Designers Pty Ltd, which is based at Carrum Downs, and the company's sole director Luke John Elliot.

The regulator commenced its investigation after receiving a request for assistance from a worker who had worked for the company between May 2019 and June 2020, when he was aged 20 to 21.

A Fair Work Inspector issued a Compliance Notice to L.E.C. Builders & Designers in December 2020 after forming a belief that the worker had been underpaid entitlements under the Building & Construction General On-site Award 2010, including his minimum hourly rates, fares and travel pattern allowance and annual leave entitlements.

The FWO alleges L.E.C. Builders & Designers, without reasonable excuse, failed to comply with the Compliance Notice, which required it to calculate and back-pay the worker's outstanding entitlements. Mr Elliot was allegedly involved in the failure to comply with the Compliance Notice.

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

Fair Work Ombudsman Sandra Parker 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," Ms Parker 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," Ms Parker said.

The FWO is seeking penalties against L.E.C. Builders & Designers Pty Ltd and Mr Elliot. The company faces a maximum potential penalty of up to \$33,300 and Mr Elliot faces a maximum potential penalty of up to \$6,660.

The regulator is also seeking a court order for the company to take the action required by the Compliance Notice, which includes calculating and rectifying any underpayments in full for the worker, plus superannuation. A directions hearing is listed in the Federal Circuit Court in Melbourne on 30 July 2021.

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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