

Sunshine Coast business operator penalised

23 April 2021

The Fair Work Ombudsman has secured a \$5,250 penalty in court against the operator of a business at Bald Knob, in Queensland's Sunshine Coast region.

The Federal Circuit Court has imposed the penalty against Amelia Ann Tester, who operates a business trading as Tarquin Lavender, which sells lavender products and previously operated a café and bed-and-breakfast.

The penalties were imposed in response to Ms Tester breaching the Fair Work Act by failing to comply with two Compliance Notices requiring her to calculate and back-pay entitlements owing to six employees.

Ms Tester back-paid the employees in full only after the Fair Work Ombudsman commenced legal action.

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

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

Fair Work Inspectors commenced an investigation after receiving a request for assistance from a worker who had been employed at Tarquin Lavender.

A Fair Work Inspector issued two Compliance Notices to Ms Tester in April 2020 after forming a belief Ms Tester had failed to pay six employees, employed on a casual basis in various positions, their correct entitlements for short periods of employment between August 2019 and February 2020.

The inspector believed the employees had been underpaid minimum wage rates and casual loadings (under the Storage Services and Wholesale Award 2010 and Hospitality Industry (General) Award 2010) and weekend penalty rates and overtime under the Hospitality Industry (General) Award 2010 only.

Judge Michael Jarrett found that the breaches of workplace laws were deliberate and reflected a preference of Ms Tester's own interests over the minimum entitlements due to her employees.

"The failure to comply with a statutory notice is serious and in this case it required the (Fair Work Ombudsman) to commence proceedings in circumstances where litigation could have easily been avoided," Judge Jarrett said.

Judge Jarrett found that Ms Tester has displayed a deliberate disregard for her obligations under the Fair Work Act and the authority of the Fair Work Ombudsman.

"A penalty needs to reflect the seriousness of the respondent's conduct and it needs to send a message to the respondent in this case to other like-minded organisations and individuals that ignoring the obligations cast upon employers and those that control them by the Fair Work Act will not be tolerated," Judge Jarrett said.

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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