

Food truck business in court

25 February 2021

The Fair Work Ombudsman has commenced legal action in the Federal Circuit Court against the operators of a Melbourne business that builds custom food trailers, vans and trucks.

Facing court are Mobile Food Vans & Trucks Pty. Ltd. and its manager Mr Yaner Gelgel.

The regulator investigated after receiving a request for assistance from an employee, a visa holder from India, who had worked for the company as a sheet metal worker.

A Fair Work Inspector issued a Compliance Notice in April 2020 after forming a belief that Mobile Food Vans & Trucks Pty. Ltd. had underpaid the employee his entitlements under the Vehicle Manufacturing, Repair, Services and Retail Award 2010.

The inspector believed the employee had been underpaid his minimum wages for ordinary hours, overtime and annual leave entitlements across two separate employment periods – between May and June 2018, and between March and August in 2019.

The FWO alleges that Mobile Food Vans & Trucks, 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 attempts to secure voluntary compliance before commencing legal action.

Fair Work Ombudsman Sandra Parker said that the regulator would continue to enforce workplace laws and take companies 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," Ms Parker said.

"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."

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

The Fair Work Ombudsman is seeking penalties against Mobile Food Vans & Trucks Pty. Ltd. and Mr Gelgel. The company faces a maximum penalty of up to \$31,500 and Mr Gelgel faces a maximum penalty of up to \$6,300.

The regulator is also seeking orders for the company to comply with the Compliance Notice, which includes rectifying any underpayments in full, plus paying applicable superannuation and interest.

A directions hearing is listed in the Federal Circuit Court in Melbourne on 28 April 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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Contact us

Fair Work Online: www.fairwork.gov.au

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