

Excavation company penalised

9 February 2021

The Fair Work Ombudsman has secured a total of \$22,050 in penalties in court against operators of an excavation business based in north-west Victoria.

The Federal Circuit Court has imposed an \$18,900 penalty against Theill Pipelines Pty Ltd, which is based at Irymple near Mildura, and a \$3,150 penalty against the company's previous sole director, Garry Vincent O'Neill.

The penalties were imposed in response to Theill Pipelines and Mr O'Neill breaching the Fair Work Act by failing to comply with a Compliance Notice requiring the business to calculate and back-pay amounts owing to an employee.

The employee had worked as an excavator operator for the company between 2009 and 2019.

In addition to the penalties, the Court has ordered Theill Pipelines and Mr O'Neill to take the action required by the Compliance Notice, which includes calculating and rectifying identified underpayments in full for the employee, plus superannuation.

Acting Fair Work Ombudsman Jeremy O'Sullivan 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," Mr O'Sullivan 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 Theill Pipelines in 2019 after receiving a request for assistance from the affected employee. Most of the employee's work for the company was in Queensland.

The Compliance Notice was issued after a Fair Work Inspector formed a belief that the employee had not been paid redundancy pay and annual leave loading owed under the Building and Construction General On-site Award 2010, and unused annual leave under the Fair Work Act.

Employers and employees seeking assistance can visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94. An interpreter service is available on 13 14 50.

Know a workplace not doing the right thing but don't want to get involved? [Report it anonymously \(www.fairwork.gov.au/workplace-problems/fixing-a-workplace-problem/anonymous-report/anonymous-tipoff\)](http://www.fairwork.gov.au/workplace-problems/fixing-a-workplace-problem/anonymous-report/anonymous-tipoff) – in your language.

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Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

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