

Central Coast hair salon operator in court

19 March 2021

The Fair Work Ombudsman has commenced legal action in the Federal Circuit Court against the operator of a hair salon in the Central Coast region of New South Wales.

Facing court is My Salon Erina Pty Ltd, which operates at the Erina Fair shopping centre, and the company's manager, Mr Nelvin Nitesh Lal.

The regulator commenced its investigation after receiving a request for assistance from a worker employed as a first-year hairdressing apprentice at the salon between October 2019 and May 2020. The employee was aged 17 at the start of the employment period.

A Fair Work Inspector issued a Compliance Notice to the company in October 2020 after forming a belief the employee was underpaid minimum rates, overtime loading and weekend penalty rates under the Hair and Beauty Industry Award 2010.

The inspector formed a belief the employee was not paid for all hours worked, including overtime and hours worked on Saturdays.

The FWO alleges the company, without reasonable excuse, failed to comply with the Compliance Notice. The notice required the company to calculate and back-pay the worker's entitlements. A failure to provide pay slips as required is also alleged. Mr Lal was allegedly involved in the contraventions.

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

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 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."

My Salon Erina Pty Ltd faces a maximum penalty of \$31,500 for failing to comply with the Compliance Notice and a penalty of up to \$63,000 for failing to provide pay slips. Mr Lal faces a maximum penalty of \$6,300 for his alleged involvement in the Compliance Notice contraventions and a penalty of up to \$12,600 for his alleged involvement in the pay slip contravention.

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

A directions hearing is listed in the Federal Circuit Court in Sydney on 9 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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