

WA hotel operator in court

25 March 2021

The Fair Work Ombudsman has commenced legal action in the Federal Circuit Court against the operators of a hotel in regional Western Australia.

Facing court are Beadon Bay Resort Pty Ltd, which is based at Onslow in north-west WA, and company director Emanuel Dillon.

The regulator investigated after receiving requests for assistance from employees.

A Fair Work Inspector issued a Compliance Notice to Beadon Bay Resort in May 2020 after forming a belief that 13 employees had been underpaid entitlements under the Hospitality Industry (General) Award 2010, including casual loading, casual minimum payments, weekend and public holiday penalty rates, overtime rates and late-night rates between May and December 2019.

The Fair Work Inspector also formed a belief, that one employee was not paid his accrued annual leave on termination of employment under the National Employment Standards.

Eight of the workers were working-holiday-visa holders from the UK and Europe.

The FWO alleges Beadon Bay Resort, without reasonable excuse, failed to comply with the Compliance Notice, which required it to calculate and back-pay the workers' outstanding entitlements. Mr Dillon was allegedly involved in the breach.

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 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 a penalty against Beadon Bay Resort Pty Ltd and Mr Dillon. The company faces a maximum potential penalty of up to \$33,300 and Mr Dillon faces a maximum potential penalty of up to \$6,660.

The regulator is also seeking a court order for Beadon Bay Resort to take the action required by the Compliance Notice, which includes calculating and rectifying any underpayments in full for the employees, plus superannuation.

A directions hearing is listed in the Federal Circuit Court in Perth on 12 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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