

## National toy retailer faces court over alleged underpayment of hundreds of young workers

15 January 2010

The Fair Work Ombudsman has launched a prosecution against retail giant Toys“R”Us, alleging the company failed to promptly compensate more than 700 staff – many of them teenagers – who had been underpaid.

Documents lodged in the Federal Magistrates Court in Sydney allege that Toys“R”Us failed to compensate the underpaid workers within the time frame required under workplace laws.

It is alleged that hundreds of the company’s workplace agreements were invalid because they failed either the Fairness test or No Disadvantage test.

The Fair Work Ombudsman claims that insufficient pay rates contained in the invalid workplace agreements resulted in Toys“R”Us underpaying more than 700 employees for various periods between 2007 and 2009.

The alleged underpayments were of entitlements including the minimum casual hourly rate and penalty rates for weekend, public holiday and night shifts.

The Fair Work Ombudsman alleges that Toys“R”Us failed to back-pay the underpaid workers within the required timeframe, despite repeated demands

It finally did so in March, 2009 – reimbursing its workers a total of \$445,000. Some had waited up to nine months to receive their outstanding entitlements.

Toys“R”Us staff who were allegedly underpaid worked at the following stores:

Western Australia - Cannington, Joondalup and Morley

South Australia - Tea Tree Gully, Noarlunga and Rundle Mall

ACT - Belconnen and Canberra Airport

Victoria - Wantirna South, Maribyrnong, Chadstone, East Preston, Geelong and Frankston, and

NSW - Parramatta, Chatswood, Kotara, Moore Park, Penrith, Bankstown, Miranda, Castle Hill, Liverpool, Campbelltown, Hurstville and Erina.

Most were engaged on a casual basis and were under the age of 25, including many under the age of 18.

The Fair Work Ombudsman also alleges that Toys“R”Us failed to follow correct procedures when lodging many of its workplace agreements. A number of agreements were allegedly non-compliant with one or more matters relating to how they had to be signed, approved by the employer and employee, dated, witnessed and lodged.

Acting Fair Work Ombudsman Natalie James says the decision to prosecute the company was made because of the significant amount involved and the company’s extensive failure to meet its obligations.

“Underpaying young workers is a particularly serious matter,” she said.

The Fair Work Ombudsman alleges Toys“R”Us committed more than 20 contraventions of workplace laws. It faces a maximum penalty of \$33,000 per breach.

The case is listed for a directions hearing on February 1.

The Fair Work Ombudsman promotes harmonious, productive and co-operative workplaces. It also monitors compliance and investigates breaches of national workplace laws.

Employers or employees seeking assistance should contact the Fair Work Infoline on 13 13 94 or visit [www.fwo.gov.au](http://www.fwo.gov.au) For translations call 13 14 50.

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