

\$184,250 in fines for underpayment of Newcastle workers

25 November 2010

A Newcastle labour hire company and its sole owner-director have been fined a total of \$184,250 for deliberately underpaying 18 workers.

Newcastle man Peter Court has been fined \$42,350 and his company Shrek Pty Ltd, which supplied workers to perform duties for the Newcastle After Hours Medical Service, has been penalised a further \$141,900.

Shrek has also been instructed to back-pay the underpaid workers a total of \$346,000 in outstanding entitlements and interest within 28 days.

The fines and back-payment order were issued by the Federal Magistrates Court in Sydney following a prosecution by the Fair Work Ombudsman.

Federal Magistrate Robert Cameron handed down the Orders after Mr Court admitted he was responsible for his company committing 12 breaches of workplace laws by underpaying 12 clerical workers and six drivers \$356,000 between March, 2006 and June, 2008.

The workers were underpaid the minimum hourly rate, casual loadings, minimum shift pay, afternoon and night shift loadings, annual leave loadings and penalty rates for weekend, public holiday and overtime work.

Fair Work inspectors discovered the underpayments when they randomly audited the company in 2008.

Shrek has back-paid the workers only \$94,000 of the money owing to them. None of the underpaid workers remain with the company.

The largest amounts still owing to individual workers, including interest, are \$68,500, \$55,200, \$53,500, \$41,900, \$41,800 and \$35,200.

Federal Magistrate Cameron said Mr Court was an "intentional participant" in his company's "deliberate" underpayment of employees, including many casual workers and shift workers.

"They were persistent breaches over a lengthy period and disadvantaged relatively low-paid workers," he said in his judgment.

"A penalty should be imposed to serve as a warning to others not to offend."

Federal Magistrate Cameron said Mr Court and his company's absence of expressions of contrition "suggests that they do not care that they have failed to meet their statutory obligations".

He said he could "have no confidence they will not seek to repeat the behaviour".

Federal Magistrate Cameron said it was relevant that Mr Court was the director of Talmiz Pty Ltd (now deregistered) when the company faced legal action in 2001 for underpaying a clerical employee it supplied to work at the Newcastle After Hours Medical Service.

"Plainly he drew no lessons from the proceedings against Talmiz," he said.

Federal Magistrate Cameron also said Mr Court was the sole director of Hansiy Pty Ltd, which now operates the Newcastle After Hours Medical Service.

"There is a possibility that he will, in the future, have responsibility for dealing with employees and their entitlements," he said.

Fair Work Ombudsman Executive Director Michael Campbell says the penalties send a clear message to others that the Courts take a dim view of employers who deliberately underpay their staff.

"And they should know that we will not hesitate to pursue employers and individual directors in court to protect workers's rights," Mr Campbell said.

"Successful prosecutions such as this also benefit employers who are complying with workplace laws because it helps them to compete on a level playing field."

Any employer or employee seeking assistance should visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94. A free interpreter service is available by calling 13 14 50.

Media inquiries:

Ryan Pedler, Senior Adviser, Media & Stakeholder Relations
(03) 9954 2561, 0411 430 902
ryan.pedler@fwo.gov.au

Page reference No: 3878

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

The Fair Work Ombudsman is committed to providing advice that you can rely on. The information contained on this website is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or workplace relations professional. Visitors are warned that this site may inadvertently contain names or pictures of Aboriginal and Torres Strait Islander people who have recently died.