

Sydney company director faces court over alleged sham contracting

7 September 2011

The Fair Work Ombudsman is prosecuting the owner-operator of a Sydney truck company, alleging he was involved in sham contracting activity and underpaying a worker more than \$13,000.

Facing court is Sydney man John Mineeff, who owned and operated Fairfield-based company Villtruck Pty Ltd, before it went into liquidation last year. Villtruck was involved in purchasing, repairing and selling second-hand trucks.

It is alleged Mr Mineeff was centrally involved in his company breaching the sham contracting provisions of workplace laws in relation to an employee who performed panel beating and vehicle detailing duties.

It is alleged the employee, aged in his 30s, was dismissed in early 2009 and immediately re-hired as an independent contractor.

However, it is alleged the employee's correct classification was as an employee because he continued to perform substantially the same duties at his employer's direction.

Fair Work Ombudsman Nicholas Wilson says under the sham contracting provisions of workplace laws, it is unlawful to dismiss an employee in order to engage them as an independent contractor to perform the same duties. "It is also unlawful to misrepresent an employment relationship as an independent contracting arrangement," Mr Wilson said.

Mr Mineeff was allegedly also involved in underpaying the employee \$13,592 in annual leave entitlements and breaching workplace laws relating to keeping employment records and issuing pay slips.

Fair Work inspectors investigated after the employee lodged a complaint.

The Fair Work Ombudsman cannot prosecute Villtruck because the company is in liquidation.

Mr Mineeff was allegedly involved in multiple breaches of workplace laws. He faces maximum penalties ranging from \$1100 to \$6600 per breach.

The Fair Work Ombudsman is also seeking a Court Order for part of any penalty imposed to go towards rectifying the alleged underpayment of the employee.

A hearing is listed for February 21 in the Federal Magistrates Court in Sydney.

Employers and workers seeking advice or assistance regarding independent contracting and sham contracting can visit the Fair Work Ombudsman's website at www.fairwork.gov.au/contractors (www.fairwork.gov.au/find-help-for/independent-contractors) or call the Infoline on 13 13 94.

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Contact us

Fair Work Online: www.fairwork.gov.au

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

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