

## Bakery faces court for allegedly threatening to sack worker unless she agreed to pay cut

3 August 2012

Note: Reference to prosecution in this media release is a general reference to the FWO commencing proceedings for the imposition of civil penalties and should not be taken to be a reference to criminal proceedings.

A Melbourne bakery will face court for allegedly underpaying and threatening to dismiss a female employee unless she agreed to a pay cut.

The Fair Work Ombudsman is taking legal action against Timryl Pty Ltd, which operates the Universal Bread and Roll Bakery at Tullamarine.

It is the second time the Fair Work Ombudsman has prosecuted Timryl.

In April, 2009, the company was fined \$16,500 in the Melbourne Magistrates Court for underpaying four former employees a total of \$12,000 between 2004 and 2006.

Legal proceedings were commenced in the first case after the company repeatedly ignored requests from Fair Work inspectors to back-pay the workers their outstanding entitlements.

The Fair Work Ombudsman has now launched a second prosecution against Timryl and its manager and part-owner, Mark Siciliano, of Lower Templestowe.

The Fair Work Ombudsman alleges that a clerical worker at the bakery was told that it was lawful for Timryl to require her to work for several days without wages.

Further, Court documents allege that she was told Timryl could also undercut minimum Modern Award conditions, including wages, superannuation and leave entitlements that applied to her position.

Mr Siciliano allegedly applied undue pressure to the employee to get her to agree to have deductions made from her pay.

Mr Siciliano allegedly threatened to dismiss the employee unless she agreed to deductions to cover the cost of mistakes she made when taking and compiling orders.

The employee allegedly believed she had no choice but to agree to the deductions if she wanted to keep her job.

It is alleged that unlawful deductions and underpayment of wages, penalty rates, superannuation and leave entitlements led to the employee being underpaid a total of \$9012 between April, 2010 and February, 2011.

The Fair Work Ombudsman discovered the alleged underpayments when it investigated a complaint lodged by the employee.

Workplace laws relating to frequency of payment of wages, keeping employment records and issuing pay slips were allegedly also breached.

Acting Fair Work Ombudsman Mark Scully says employers need to be aware that workplace negotiations must be free of undue pressure and that it is not possible to 'contract-out' of Modern Award pay rates and conditions.

Mr Scully says a key factor in the decision to prosecute was that Timryl had previously been the subject of Fair Work Ombudsman legal action (see [Melbourne bakery fined \\$16,500 for underpaying delivery drivers \(www.fairwork.gov.au/About-us/news-and-media-releases/2009-media-releases/April-2009/20090401\)](http://www.fairwork.gov.au/About-us/news-and-media-releases/2009-media-releases/April-2009/20090401) ).

"The company has previously been warned in no uncertain terms about the importance of complying with workplace laws," Mr Scully said.

The Fair Work Ombudsman alleges Mr Siciliano was involved in Timryl committing several breaches of workplace laws.

Mr Siciliano faces maximum penalties of up to \$6600 per breach and the company faces maximum penalties of up to \$33,000 per breach.

The Fair Work Ombudsman is also seeking a Court Order for the company to fully rectify the alleged underpayment of the employee.

It is alleged that the underpayment has been partially rectified but that \$2228 remains outstanding.

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