

## Employee with cancer allegedly dismissed because he wanted to take paid sick leave

21 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.

The Fair Work Ombudsman is prosecuting the operator of a Perth panel beating business for allegedly dismissing a long-term employee to prevent him from taking sick leave after he was diagnosed with cancer.

Facing court is Pasquale Minniti, who part-owns and runs panel beating business Hi-Lite Automotive on Beechboro Road, Bayswater. Also facing Court is AJR Nominees Pty Ltd, the private company through which Mr Minniti and his wife operate Hi-Lite Automotive.

Mr Minniti was allegedly involved in dismissing a full-time spray painter - after the employee was diagnosed with cancer - in an effort to prevent him from taking paid personal leave.

The Fair Work Ombudsman will tell the Federal Court in Perth that after being diagnosed with cancer in December, 2010, the spray painter obtained the relevant medical certificates and informed Mr Minniti that he proposed to take paid personal leave.

The employee had worked for the business for more than nine years and had allegedly accrued more than 13 weeks of paid personal leave.

Court documents allege that Mr Minniti responded by trying to pressure the employee to resign on several occasions in January, 2011. It is alleged that at a meeting in February, 2011 Mr Minniti told the employee he did not believe there was anything wrong with him.

It is further alleged that Mr Minniti then became agitated and yelled at the employee in a threatening manner, telling him: "If you don't get out of here I'm going to throw you out". The employee was allegedly dismissed a short time after the meeting.

The Fair Work Ombudsman alleges Mr Minniti, on behalf of AJR Nominees, dismissed the employee - or insisted that he resign - to prevent him from accessing his lawful entitlement to paid personal leave.

Under workplace laws, it is unlawful to take adverse action against an employee, such as dismissing them, to prevent an employee from exercising a workplace right, such as accessing a lawful entitlement to take leave.

It is alleged Mr Minniti's conduct, on behalf of AJR Nominees, also breached the coercion provisions of workplace laws. Mr Minniti faces maximum penalties of \$6600 per breach and AJR Nominees faces maximum penalties of \$33,000 per breach.

The Fair Work Ombudsman is also seeking a Court Order for AJR Nominees to pay the employee \$15,051 compensation for the paid personal leave he was entitled to access and wages-in-lieu-of-notice and accrued annual leave entitlements it allegedly failed to pay him when he was dismissed.

Employers or employees seeking assistance should contact the Fair Work Infoline on 13 13 94 or visit [www.fairwork.gov.au](http://www.fairwork.gov.au). A free interpreter service is available on 13 14 50.

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## Contact us

Fair Work Online: [www.fairwork.gov.au](http://www.fairwork.gov.au)

Fair Work Infoline: 13 13 94

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