

## Phone retailer fined almost \$6000 over discrimination against new Mum

10 May 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 former operator of a mobile phone retailing business in Victoria has been fined \$5940 for discriminating against an employee when she attempted to return from parental leave.

The Federal Court imposed the penalty yesterday against Melbourne man Ibrahim (Abraham) Ramadan – who formerly operated a Mo's Mobile store at Corio, (Geelong).

Justice Mordecai Bromberg ordered the fine be paid to the affected employee.

The penalty and compensation Orders are the result of legal action initiated by the Fair Work Ombudsman.

In an Agreed Statement of Facts to the Court, Ramadan admitted he was centrally involved in unlawfully discriminating against an employee when she attempted to return to work after taking unpaid parental leave.

Ramadan's conduct breached provisions of the Fair Work Act that make it unlawful to discriminate against employees on the grounds of pregnancy and family-and-carer responsibilities.

The conduct also contravened the requirement under workplace law to allow employees to resume their previous position - or another mutually agreed position - on their return from parental leave.

"A penalty should be imposed at a meaningful level so as to deter other employers from committing similar contraventions," Justice Bromberg said in his written decision handed down yesterday.

"The contraventions in this case represent a failure to provide basic and important conditions and entitlements under the Fair Work Act to an employee seeking to return to work from parental leave."

The employee had been employed as the manager of the Corio Mo's Mobile store for almost two years when she took unpaid parental leave in June, 2009, shortly before she had a baby.

When the employee sought to return to work from parental leave in 2010, Ramadan refused to allow her to return to the store manager position.

Ramadan engaged another worker in the position permanently without consulting the employee and offered the employee, who lives in Geelong, manager positions at Mo's Mobiles stores in Watergardens and Airport West, both about one-hour's drive from the employee's home.

After the employee declined the positions because of her family responsibilities and again asked to return to the Corio store, Ramadan made the continuation of her employment conditional on her accepting one of the positions.

Her employment came to an end a short time later, in June, 2010.

Acting Fair Work Ombudsman Bill Loizides says the Court's decision illustrates the importance of employers treating their employees fairly and understanding their obligations under workplace laws.

Initially, the Fair Work Ombudsman also sought to prosecute Tiger Telco Pty Ltd - the company through which Ramadan operated the store - but legal action was discontinued when the company went into liquidation last year.

Under the Fair Work Act, it is unlawful to discriminate against employees on the grounds of pregnancy, race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer responsibilities, religion, political opinion, national extraction or social origin.

Discriminatory behaviour can include dismissing an employee, threatening to dismiss an employee, denying training and promotion

opportunities or refusing to employ, promote or train an employee.

Mr Loizides says every employee has the right to work without fear of discrimination and information about what sort of behaviour constitutes unlawful discrimination is available on the Agency's website.

"Employers who have fair and transparent selection processes for recruitment, promotion, training and other business systems will be well placed to cultivate fair workplaces free of discrimination," he said.

Yesterday's decision against Ramadan is the third case in which the Fair Work Ombudsman has secured penalties against an employer for unlawfully discriminating against an employee.

The former owner-operators of a Sydney printing business were fined \$23,760 and ordered to pay \$2207 compensation earlier this year for committing sex and pregnancy discrimination breaches by demoting and mistreating an employee after she told them she was pregnant. (See: [Court imposes \\$23,000 penalty over sex and pregnancy discrimination \(www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2012-media-releases/february-2012/20120202-wongtas-penalty\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2012-media-releases/february-2012/20120202-wongtas-penalty) ).

And the operators of the Border Barber hairdressing salons in Albury-Wodonga were last year fined \$3600 and ordered to pay \$1320 compensation for discriminating against a physically disabled employee. (see: [Employer fined over disability discrimination \(www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2011-media-releases/august-2011/20110809-border-barber-penalty\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2011-media-releases/august-2011/20110809-border-barber-penalty) ).

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