

Regulator takes further Court action over alleged pregnancy discrimination

8 November 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 has launched further legal action alleging discrimination against a young employee on the grounds of her pregnancy.

It is the fifth prosecution by the workplace regulator involving discrimination on the grounds of a woman's pregnancy.

Facing court is the Felix Corporation Pty Ltd, which operates GV Bargains stores throughout Victoria.

Also facing court are company owner-managers Feiyue Hu and Jian Ping Hu, of Shepparton, in regional Victoria.

A part-time shop assistant at Shepparton was allegedly discriminated against between December, 2010 and April, 2011.

After the employee, then aged 22, became pregnant, she was allegedly directed to take two weeks unpaid leave.

When the employee refused, her rostered hours were allegedly cut from an average of 26 hours to less than 10 a week.

Mrs Hu allegedly told the employee it was a tradition that women in China do not work when they are pregnant and that she did not want her working.

It is alleged the employee was eventually told that no further hours of work would be offered to her, in what amounted to a constructive dismissal.

The conduct allegedly breached the discrimination provisions of workplace laws.

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, reducing an employee's hours, denying training and promotion opportunities or refusing to employ, promote or train an employee.

Workplace laws relating to obtaining written agreement before reducing a part-time employee's regular work hours, keeping employment records and complying with a Notice to Produce employment records were allegedly also breached.

The Fair Work Ombudsman alleges Mr and Mrs Hu were involved in Felix Corporation committing several breaches of workplace laws.

Mr and Mrs Hu face penalties of up to \$6600 per breach and their company faces penalties of up to \$33,000 per breach.

The Fair Work Ombudsman is also seeking a Court Order for Mr and Mrs Hu and the Felix Corporation to pay the employee compensation for economic and non-economic loss suffered.

The case is listed for directions hearing in the Federal Magistrates Court in Melbourne on December 10.

Last month, [the operator of a Perth child care centre was fined \\$13,200 and ordered to pay \\$5000 compensation \(www.fair-work.gov.au/about-us/news-and-media-releases/archived-media-releases/2012-media-releases/october-2012/20121018-wko-penalty\)](http://www.fair-work.gov.au/about-us/news-and-media-releases/archived-media-releases/2012-media-releases/october-2012/20121018-wko-penalty) to an employee pressured into resigning after she became pregnant.

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

The former operator of a mobile phone business in Victoria was fined \$5940 earlier this year (www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2012-media-releases/may-2012/20120510-ramadan-penalty) for discriminating against an employee when she attempted to return from parental leave.

The Fair Work Ombudsman is currently prosecuting A Dalley Holdings Pty Ltd (www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2012-media-releases/july-2012/20120709-a-dalley-holdings-prosecution) - which operates the Bellarine Court aged care facility at Geelong - and Anglesea man Andrew Dalley, who manages and part-owns the centre, alleging they discriminated against an employee when she attempted to return from maternity leave. The case is still before the Court.

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

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