

Perth child care centre faces court over alleged pregnancy discrimination

6 September 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 a pregnancy discrimination prosecution against the operator of a Perth child care centre.

Facing court is W.K.O Pty Ltd, which operates the Dinki Di Child Care Centre at Innaloo, and Caversham woman Orieta O'Leary, who manages and part-owns the centre.

Mrs O'Leary was allegedly centrally involved in discriminating against a pregnant child care worker, then aged 28, at the centre in 2010.

It is alleged that after becoming aware the employee was pregnant, Mrs O'Leary, on behalf of W.K.O, was involved in reducing the full-time employee's work hours, misrepresenting to the employee that she was not entitled to parental leave and pressuring her to resign.

It is alleged the conduct amounted to a constructive dismissal of the employee for reasons including that the employee was pregnant and had proposed to take unpaid parental leave.

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.

Mrs O'Leary's conduct, on behalf of W.K.O, allegedly also breached workplace laws that make it unlawful to take action against any employee to prevent them from accessing a workplace right, such as an entitlement to leave.

The Fair Work Ombudsman alleges Mrs O'Leary was involved in W.K.O committing several breaches of workplace laws.

Mrs O'Leary and W.K.O face maximum penalties per breach of \$6600 and \$33,000 respectively.

The Fair Work Ombudsman is also seeking a Court Order for W.K.O to pay the employee \$5000 compensation for economic and non-economic loss.

The case is listed for hearing in the Federal Court in Perth on October 3.

The case is the Fair Work Ombudsman's fourth prosecution case related to pregnancy discrimination.

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)).

The former operator of a mobile phone business in Victoria was fined \$5940 earlier this year for discriminating against an employee when she attempted to return from parental leave (See: [Phone retailer fined almost \\$6000 over discrimination against new Mum \(www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2012-media-releases/may-2012/20120510-ra-madan-penalty\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2012-media-releases/may-2012/20120510-ra-madan-penalty)).

The Fair Work Ombudsman is currently prosecuting A Dalley Holdings Pty Ltd - 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 (See: [Aged care centre faces court over alleged pregnancy discrimination \(www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2012-media-releases/may-2012/20120510-ra-madan-penalty\)](http://www.fairwork.gov.au/about-us/news-and-media-releases/archived-media-releases/2012-media-releases/may-2012/20120510-ra-madan-penalty)).

[releases/july-2012/20120709-a-dalley-holdings-prosecution](#)).

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