

Fines imposed over underpayment of Bendigo transport workers

4 February 2013

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 operators of a transport business in central Victoria have been fined a total of \$11,880 and ordered to back-pay employees more than \$220,000.

Husband-and-wife Michael Gregory Symes and Janice Mary Symes, who jointly own and operate Symes Transport at Bendigo, have each been fined \$5940.

The couple has also been ordered to back-pay a total of \$227,704 to 44 underpaid employees of their transport business within 12 months.

The fines and back-payment orders, imposed in the Federal Magistrates Court in Melbourne, are the result of a prosecution by the Fair Work Ombudsman.

Michael and Janice Symes admitted their business underpaid 44 employees a total of \$251,942 between November, 2005 and December, 2009.

The workers were variously employed on a full-time, part-time or casual basis to load and/or drive trucks.

They were underpaid their minimum hourly rates, overtime rates, shift and meal allowances and annual leave loading entitlements.

The biggest underpayment of an individual employee was \$29,914.

Fair Work Inspectors first discovered the underpayments in 2009 when they investigated a complaint from an employee. Only a proportion of the underpayments have subsequently been rectified.

In her judgment on the case Federal Magistrate, Norah Hartnett, said Michael and Janice Symes had made inadequate effort to secure up-to-date information about applicable pay rates, leading to an "extremely large" amount of underpayments.

"The employees who have been underpaid have been deprived of the benefits of these amounts for a lengthy period of time," Federal Magistrate Hartnett said.

Fair Work Ombudsman, Nicholas Wilson, said the case sends a message that failing to comply with minimum pay rates is a serious matter and will not be tolerated.

"It is the obligation of employers to ensure they pay their employees their full entitlements," Mr Wilson said.

Employers and workers seeking assistance can visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94. For an interpreter service, call 13 14 50.

Media inquiries:

Ryan Pedler, Assistant Director, Media & Stakeholder Relations,
0411 430 902
ryan.pedler@fwo.gov.au

Contact us

Fair Work Online: www.fairwork.gov.au

Fair Work Infoline: 13 13 94

Need language help?

Contact the Translating and Interpreting Service (TIS) on 13 14 50

Hearing & speech assistance

Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

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