

## Qld real estate agency fined for underpayment

Monday, 01 July 2013

The operators of a Queensland real estate agency have been fined a total of \$27,720 for paying a salesman just \$100 for five months work.

Lovers of Property Pty Ltd, which trades as the Burpengary-based agency Property Lovers, has been fined \$19,800.

In addition, company directors and part-owners William Nicholas Fraser and Diana Sylvia Cartwright, both of Morayfield, have each been fined \$3960.

The fines, imposed in the Federal Circuit Court in Brisbane, are the result of legal action by the Fair Work Ombudsman.

The fines were imposed after the company admitted breaching workplace laws by failing to pay the employee a total of \$12,440 in wages and entitlements he was entitled to for five months work in 2010.

The salesman was back-paid only after the Fair Work Ombudsman launched legal action.

The underpayment was the result of Lovers of Property inadvertently misclassifying the salesman as an independent contractor, rather than as an employee, and paying him on a commission-only basis.

This led to the salesman, who was in his late 50s and had no prior experience in the real estate industry, performing five months work for just \$100, which he received in recognition of his assistance in concluding a sale.

The salesman's assigned tasks included letterbox drops, door knocking, answering phone calls and offering free property appraisals and his usual rostered hours were 8.30 am to 5 pm, Monday to Saturday.

The Fair Work Ombudsman alleged the misclassification of the salesman was reckless and amounted to sham contracting, however this allegation was dismissed in Court.

Acting Fair Work Ombudsman, Michael Campbell, said the case sends a message that failing to ensure workers are classified and paid correctly is a serious matter.

"Successful legal actions such as this also benefit employers who are complying with workplace laws because it helps them to compete on a level playing field," Mr Campbell said.

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