

Fashion retailer fined \$11,000 for \$5,000 underpayment to manager

7 July 2013

A former Melbourne fashion retailer who underpaid one of his store managers has been fined \$11,220.

The Federal Circuit Court imposed the fine, which is 85 per cent of the maximum, against Toorak man, Uri Burke, who operated CM's Fashion outlets at various locations across Melbourne. As well as the underpayment, the fine applies to breaches of workplace law relating to record-keeping and failure to provide pay slips.

The Court found Burke was involved in his company failing to pay \$5,000 in annual leave entitlements to the manager of his St Kilda store when the employee resigned in February 2010. The Court ordered \$5,000 of the total fine, plus \$1,422 interest be paid to the employee within 60 days.

Federal Circuit Court Judge Frank Turner, found that the underpayment occurred in the same week that Burke was fined for similar underpayments to other employees.

Burke and his company had been fined \$19,500 by the Melbourne Magistrates Court in 2010 for underpaying two employees \$6,940.

"In the circumstances, the respondents are taken to have known their obligations, but chose to avoid them." Judge Turner said. The Judge described Burke as a 'repeat offender' and said there was '....no evidence of contrition.'

The Fair Work Ombudsman initially took action against Burke's company, known as ACN 052 182 180 Pty Ltd (formerly Tovek Pty Ltd.) The company went into liquidation in September 2011, preventing penalties being imposed against the company.

However, in imposing the fines directly against Burke, Judge Turner said that '.....it is possible that he (Burke) will re-engage in a similar role in the future. He must be deterred from engaging in similar conduct.'

Acting Fair Work Ombudsman, Michael Campbell, said the case serves as a warning to employers who completely disregard workplace law.

"This is a case in which workplace laws in relation to staff entitlements and the obligation to provide pay slips and maintain records was completely disregarded," Mr Campbell said.

"Employers need to ensure that their business is fully compliant with workplace law," Mr Campbell said.

"Particularly in cases where there is evidence of deliberate and repeated avoidance of obligations, the Fair Work Ombudsman will not hesitate to instigate legal action."

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

Media inquiries:

Kevin Donnellan,
0408 491 956
media@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

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

The Fair Work Ombudsman is committed to providing advice that you can rely on. The information contained on this website is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or workplace relations professional. Visitors are warned that this site may inadvertently contain names or pictures of Aboriginal and Torres Strait Islander people who have recently died.