

Court action over alleged failure to back-pay underpaid Filipino crew

Note: This matter has been withdrawn by agreement between the parties with no admission as to liability. The Respondent denies it was the Employer. The Respondent has agreed to meet the Fair Work Ombudsman's external legal costs. Underpayments to all workers have been rectified.

19 June 2013

The Fair Work Ombudsman has launched legal action against a Philippines-based company, alleging it failed to comply with a demand to pay Filipino crew according to Australian workplace laws, while in Australian waters.

Facing court is InterOrient Maritime Enterprises Inc, which recruits and employs Filipino crew and supplies them to work on foreign ships under labour-hire arrangements.

It is alleged the company underpaid 20 Filipino employees a total of \$13,513 over a nine-day period in July 2011, when they were crew members on a foreign ship that had been granted an Australian Government permit to transport cargo between Ceduna, in South Australia, and Melbourne.

The employees were covered by Subclass 988 Maritime Crew visas at the time.

Under Australian workplace laws, in certain circumstances employees on board foreign ships operating under a permit in Australian waters must be paid according to Australian minimum pay rates.

The Fair Work Ombudsman discovered the alleged underpayments when it investigated a referral from the International Transport Workers' Federation.

It is alleged that in December 2012, a Fair Work Inspector issued InterOrient Maritime Enterprises a Compliance Notice demanding full rectification of the underpayment within 28 days but the company failed to comply.

It is alleged that InterOrient failed to meet the requirements of the Compliance Notice and did not seek to have it reviewed.

Under the Fair Work Act, employers must comply with Compliance Notices issued by Fair Work Inspectors or make a court application for a review of the Compliance Notice if they are seeking to challenge it.

Acting Fair Work Ombudsman, Michael Campbell, said the decision to launch legal action was made because enforcing compliance with Compliance Notices was fundamental for maintaining the integrity of Australia's workplace laws.

InterOrient Maritime Enterprises faces a maximum penalty of \$25,500. The Fair Work Ombudsman is also seeking a Court Order for the company to back-pay the employees in full. The case is being heard in the Federal Circuit Court in Sydney.

Employers and employees seeking assistance should visit www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94. Information on the website includes a detailed fact sheet for the maritime industry.

Media inquiries:

Kevin Donnellan, Director, Media & Stakeholder Relations
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.