

## Transport operator fined over underpayments

3 June 2014

The Federal Circuit Court in Sydney has handed down a fine of \$13,200 against the former operator of a NSW transport company over his involvement in the underpayment of two employees in Dubbo.

Graeme John Doble part-owned and managed Doble Express Transport until it went into administration last year.

The Fair Work Ombudsman commenced legal proceedings against both Doble and the company, alleging they had underpaid three employees almost \$240,000 between 2007 and 2013.

Legal action against Doble Express Transport was automatically stayed when the company went into administration, but proceedings against Doble himself continued.

The affected employees, two at Dubbo and one based at Orange, were underpaid amounts of \$92,939, \$86,314 and \$60,111, primarily because they were paid flat hourly rates of between \$17 and \$19 for all hours worked, resulting in underpayment of penalty rates for overtime, public holiday and shift work.

The employees were also underpaid meal and travel allowances, casual loadings and annual leave payments. Record-keeping laws were also breached.

Delivering her decision, Judge Sylvia Emmett said that Doble had lengthy experience in the transport industry and “should have had some awareness, at the very least, of entitlements due to his employees”.

She found that Doble “failed to take any steps as to whether the flat hourly rate paid to the employees was sufficient to cover all their entitlements under the industrial awards.”

Judge Emmett also noted that the underpayment of one employee had continued for at least three months after the Fair Work Ombudsman had issued a contravention letter.

She found that while Doble had co-operated with authorities and made more than \$100,000 available for various creditors, it was not possible to identify how much the three underpaid employees would receive.

For that reason, the Court ruled that the penalty against Doble over his involvement in the underpayment of the two Dubbo employees should go towards partially rectifying a small portion of money owed.

Fair Work Ombudsman Natalie James says inspectors made extensive efforts to resolve the matter by agreement before legal proceedings were commenced.

She says the penalty should remind other company directors that they can face personal liability for their actions.

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