

Vic petrol station fined \$123,000 after showing ‘no contrition’ for underpayments

24 November 2014

A Victorian petrol station operator has shown no contrition for underpaying two console operators as little as \$10 an hour, resulting in them needing to seek additional income to meet living expenses.

The operator, Wedderburn Petroleum Pty Ltd, has been fined \$123,915 in the Federal Circuit Court for the underpayments.

The company formerly operated a petrol station at 117 High Street, Wedderburn, north-west of Bendigo.

It underpaid the employees – one aged in her late 20s and the other in her 50s – amounts of \$21,637 and \$25,621 respectively between 2008 and 2013 as a result of paying them flat hourly rates ranging from \$10 to \$15.96 for all hours worked.

This resulted in underpayment of their minimum hourly rates, casual loadings, annual leave entitlements and penalty rates for weekend, public holiday and overtime work.

The company also contravened record-keeping and pay slip laws.

The Fair Work Ombudsman commenced an investigation when the employees lodged complaints.

After Wedderburn Petroleum refused to co-operate and back-pay the employees, the Fair Work Ombudsman launched legal action.

In his judgment on the case, Judge Frank Turner found that the Fair Work Ombudsman informed the company of the need to pay lawful minimum pay rates in 2010 but the company chose to deliberately underpay the two employees.

“The breaches were extensive and resulted in proportionately significant underpayments to each employee,” Judge Turner said.

“The failure to provide pay slips affected the employees’ ability to obtain finance.

“The employees were on low income and needed to seek additional income to enable them to meet their living expenses.”

One employee gave evidence that the need to secure a second job resulted in her working long hours, making it difficult for her to spend time with her husband and young children.

Judge Turner said significant factors in determining the appropriate penalty included that Wedderburn Petroleum had made “no effort to co-operate with the Fair Work Ombudsman”, had “shown no contrition” and had shown “flagrant disregard” for Court Orders made earlier this year to back-pay the workers in full.

Judge Turner found that there was a “clear need for specific deterrence” of the company, as well as a need to impose a penalty to deter others from contravening workplace laws.

Fair Work Ombudsman Natalie James says the Court’s decision sends a message that deliberately underpaying employees and then refusing to promptly rectify the matter is very serious conduct that will not be tolerated.

“We will not hesitate to take action to ensure employees receive their basic minimum entitlements,” Ms James said.

“Successful litigations such as this also benefit employers who are complying with workplace laws, because it helps them to compete on a level playing field.”

Ms James says the Fair Work Ombudsman can assist employers with accurate, reliable information and encouraged businesses to access the Agency’s free tools and resources.

Online tools available at www.fairwork.gov.au include PayCheck Plus to determine the correct award and minimum wages for employees, templates for pay slips and time-and-wages records and a range of Best Practice Guides.

The website has attracted more than 2.2 million visitors since it was revamped in June and the Online Learning Centre on the website has now attracted more than 18,000 users, mostly small business operators.

Employers and employees seeking advice or assistance should visit the website or contact the Fair Work Infoline on 13 13 94.

A free interpreter service is available by calling 13 14 50.

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Media inquiries:

Ryan Pedler, Assistant Media Director

Mobile: 0411 430 902

ryan.pedler@fwo.gov.au (mailto:ryan.pedler@fwo.gov.au)

Page reference No: 5112

Contact us

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