

Child-care operator fined over underpayments

24 September 2014

The owner-operator of a Melbourne child-care business has been fined \$19,980 after showing no remorse over the underpayment of five employees.

The penalty has been imposed against Vivien Mahomet in the Federal Circuit Court following legal action by the Fair Work Ombudsman.

Mahomet admitted she was responsible for her business, which trades as Academy for Kids, underpaying five employees a total of \$16,369 in 2012.

Academy for Kids provides before and after school care and holiday care for children at a number of sites throughout Melbourne.

The five underpaid employees were casual child-care workers who were located at Glen Waverley, West Preston and Reservoir.

The employees were aged in their 30s and 40s and each held a Certificate Level III in Children's Services.

The employees were underpaid their minimum hourly rate for some work performed and not paid at all for some work.

Casual loadings and broken shift allowances were also underpaid.

Mahomet also contravened workplace pay slip obligations and failed to comply with a Notice to Produce documents issued by Fair Work inspectors.

The underpayments were not rectified until earlier this month.

The Fair Work Ombudsman had previously warned Mahomet of the need to comply with workplace laws.

The Agency received 11 complaints from her employees between 2009 and 2012.

Handing down the penalty, Judge John O'Sullivan said: "There is no evidence that the respondent is remorseful or contrite; nor is there any evidence the respondent has taken steps to mitigate the seriousness of the conduct."

He noted that the Fair Work Act represented a safety net for employment conditions.

"The Court has a responsibility to ensure that those conditions are observed and industrial instruments are enforced," Judge O'Sullivan said.

Fair Work Ombudsman Natalie James said Mahomet's lack of co-operation with inspectors was a key factor in the decision to put the matter into court.

The Fair Work Ombudsman attempted to contact Mahomet at least 15 times, but the majority of attempts were met with no response.

Mahomet did not reply to an invitation from the Fair Work Ombudsman to participate in a recorded interview regarding the allegations.

She also declined to provide employment documents within the required timeframes.

"We made extensive efforts to resolve this matter but were left with no option but to pursue this matter in Court to recover employee entitlements and enforce workplace laws," Ms James said.

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

Employers and employees seeking assistance can 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.

Helpful online tools include PayCheck Plus to assist business owners and employees determine the correct award and minimum wages for their industry, templates for pay slips and time-and-wages records and a range of fact sheets on workplace entitlements.

Follow Fair Work Ombudsman Natalie James on Twitter [@NatJamesFWO](https://twitter.com/NatJamesFWO) (<http://twitter.com/NatJamesFWO>), the Fair Work Ombudsman [@fairwork_gov_au](https://twitter.com/fairwork_gov_au) (http://twitter.com/fairwork_gov_au) or find us on Facebook www.facebook.com/fairwork.gov.au (<http://www.facebook.com/fairwork.gov.au>).

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: 5064

Contact us

Fair Work Online: www.fairwork.gov.au

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Call through the National Relay Service (NRS):

For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

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